S. HRG. 99-163

NOMINATIONS OF WILLIAM P. HORN AND J. WINSTON PORTER

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

THE NOMINATIONS OF WILLIAM P. HORN TO BE ASSISTANT SECRETARY OF THE INTERIOR FOR FISH, WILDLIFE, AND PARKS, AND J. WINSTON PORTER TO BE ASSISTANT ADMINISTRATOR FOR SOLID WASTE AND EMERGENCY RESPONSE, ENVIRONMENTAL PROTECTION AGENCY

JULY 24, 1985

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NOMINATIONS OF WILLIAM P. HORN AND J. WINSTON PORTER

WEDNESDAY, JULY 24, 1985

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 9:45 a.m., in room 406, Dirksen Senate Office Building, Hon. Robert T. Stafford (chairman of the committee) presiding.

Present: Senators Stafford, Chafee, Burdick, and Baucus.

NOMINATION OF WILLIAM P. HORN

OPENING STATEMENT OF HON. ROBERT T. STAFFORD, U.S. SENATOR FROM THE STATE OF VERMONT

Senator STAFFORD. Ladies and gentlemen, the Committee on Environment and Public Works is meeting this morning to hear two candidates for important Federal positions.

We'll hear first from William P. Horn, nominated to be Assistant Secretary of Interior for Fish, Wildlife and Parks. In this position, Mr. Horn would be responsible for administration of fish and wildlife refuges and for implementation of the Endangered Species Act, the Coastal Barriers Resources Act, the Fish and Wildlife Coordination Act, the Sikes Act, and the Nongame Conservation Act. He will also play an important role in carrying out section 404 of the Clean Water Act. This committee has jurisdiction over each of these programs and maintains a keen interest in their implementation.

Because Mr. Horn will also have responsibility for the National Park Service, his nomination was referred jointly to us and to the Energy Committee. He is scheduled to appear before that committee when he finishes here.

The second nomination pending before this committee is that of J. Winston Porter, proposed for the position of Assistant Administrator for Solid Waste and Emergency Response of the Environmental Protection Agency. If confirmed, Mr. Porter will have the heavy responsibility and challenging task of implementing not only the Comprehensive Environmental Response, Compensation, and Liability Act, known in short form as CERCLA and known popularly as Superfund, but also the Solid Waste Disposal Act, including the landmark amendments developed in this committee and signed into law last year.

At this point, let me welcome our colleague, Senator Ted Stevens, who is here to introduce Mr. Horn, and ask if other members of the committee, before Senator Stevens introduces him, care to make an opening statement. I note that Senators Chafee and Mitchell have been here, and Senator Chafee is chairman of the Environmental Pollution Subcommittee, so we will interrupt proceedings as we may need to give Senator Chafee an opportunity to make an opening statement if he wishes.

Senator Burdick, do you have an opening statement?

OPENING STATEMENT OF HON. QUENTIN N. BURDICK, U.S. SENATOR FROM THE STATE OF NORTH DAKOTA

Senator BURDICK. North Dakota, which is the duck factory of the Nation, has been requested by the Federal Government to preserve its prairie potholes for waterfowl breeding areas. The State, which composes 10 percent of the Nation's pothole area, has been involved many years in this national effort. In fact, the first National Wildlife Refuge purchased in this country from duck stamp revenue is in my State. That refuge was named after Jay Darling, who established Fish and Wildlife under F.D.R.

For many years, North Dakota was a willing partner. However, landowners and water resource districts have encountered some major problems with the services' perpetual easement program. The State has requested Secretary Hodel to negotiate a management plan. The plan would cover the extent and general location of all proposed acquisition and land management policies.

Senator STAFFORD. Thank you, Senator Burdick.

I have here a statement of Senator Mitchell, which will be entered into the record at this point.

[Senator Mitchell's statement follows:]

OPENING STATEMENT OF HON. GEORGE J. MITCHELL, U.S. SENATOR FROM THE STATE OF MAINE

I want to welcome Mr. Horn to our hearing on his nomination to the position of Assistant Secretary of the Interior for Fish, Wildlife and Parks. I congratulate you for this nomination. The Assistant Secretary for Fish, Wildlife and Parks is a very important post with responsibilities for many issues of interest to members of our Committee.

I want to emphasize a number of areas to which I hope you will give special emphasis. First, the U.S. Fish and Wildlife Service plays an important role under section 404 of the Clean Water Act. I strongly urge you to fully exercise your authority under the 404 program so that vital wetland habitat can be protected to the fullest extent of the law.

In addition, the Service is the predominant agency for administering the Endangered Species Act. Identifying and listing of species which are threatened with extinction, and achieving their recovery, is one of the most important contributions you can make to future generations.

You must also protect and conserve our National Parks and National Wildlife Refuges. These areas contain our country's most spectacular scenic and natural resources. These areas were not added to the Park System and Refuge System without considerable thought and, often, long debate. Your role as their protector is an important national trust.

These are just a few of the many issues you will deal with as Assistant Secretary. They are often highly complicated by conflicting interests and needs. I hope that you will consult with the members of this Committee on the numerous policy decisions you will make. I look forward to working closely with you.

Senator STAFFORD. Senator Chafee, do you have an opening statement?

OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator CHAFEE. Mr. Chairman, I know that Senator Stevens has been waiting for a while so I will submit my statement for the record and just say that I consider these posts extremely important. I've met both Mr. Horn and Mr. Porter, and I just want to impress on them that we look on these posts that each of you are to assume with the greatest interest and concern and we'll certainly be watching how you do. But furthermore, we're here to be of assistance. I think that's one of the things that's frequently forgotten. These committees are not just to plague you, they're to help you; and I would hope that if you've got problems, legislative or otherwise, that you think we could be of assistance, come around and see us. It certainly isn't an antagonistic relationship that we have in any respect. We want to help you do your jobs well.

Thank you, Mr. Chairman.

[Senator Chafee's statement follows:]

OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

This morning we are going to hear from the nominees for what I consider to be two of the most important environmental posts in the Federal Government—Assistant Secretary for Fish, Wildlife, and Parks and Assistant Administrator for Solid Waste and Emergency Response. We welcome Mr. Bill Horn and Mr. Winn Porter and look forward to their testimony.

As the Chairman mentioned, this Committee has broad jurisdiction over a number of fish and wildlife conservation programs. Our Committee, and indeed the American public, has always had a strong interest in these programs as fish and wildlife species are part of our Nation's great natural heritage. Mr. Horn has had a variety of experience in affairs at the Interior Department. I am confident he can use that experience to vigorously and responsibly implement these laws and, indeed, come up with new ideas on how we can better conserve our fish and wildlife resources.

Last year this Committee and the Congress strengthened the Resource Conservation and Recovery Act—a major overall which is going to require a commitment of substantial resources by the EPA. This year we are going to expand and extend the Superfund program, which is also going to take an enormous effort on the part of EPA to effectively manage properly. Mr. Porter comes to the Agency at a critical time. The successful operation of these two waste programs are vital if we are going to protect the public from toxic poison. Not too long ago EPA lost the public's faith and the results were devastating. That situation has been reversed. Public confidence has been restored. I know we will be looking to Mr. Porter to build on that confidence and press forward with these critical programs. We look forward to hearing from the nominees as well as the other witnesses here to testify this morning.

Senator STAFFORD. Thank you, Senator Chafee. Without objection, your full statement will appear in the record, and I certainly share your sentiments. I'm reminded, though, of what an Admiral once told me in World War II when I was in the Navy. He told me what he wanted, and then he said, "Of course, if you don't do it I'll come back on you."

Senator Stevens?

STATEMENT OF HON. TED STEVENS, U.S. SENATOR FROM THE STATE OF ALASKA

Senator STEVENS. Thank you, Mr. Chairman, members of the committee. Let me request that my full statement appear in the record and that the statement of Senator Murkowski, who is chair-

ing a hearing that Mr. Horn will go to from this hearing, also appear in the record.

Senator STAFFORD. Without objection, they will both appear fully in the record.

Senator STEVENS. As I said in my statement, I have known Bill Horn and his family for many years. I think many of you know that I am a former Solicitor of the Interior Department, served many years in the Interior Department during the Eisenhower administration. And I, as a matter of fact, helped conceive some of the laws that you just read that Mr. Horn will be administering, some of the older ones, during those days.

I also have the great pleasure of having Bill's wife on my staff at the Defense Subcommittee for the Appropriations Committee. This is a very hard-working team that we have, with Bill and his wife working for the Federal Government. They have both distinguished themselves in their individual careers and I know that, as the Assistant Secretary for Fish, Wildlife and Parks, Bill Horn is going to take with him a great deal of knowledge of the whole subject area. In his past position as Assistant to the Secretary, he has done just a—he's really been Deputy Under Secretary now; he's had the real scope of the Department under his jurisdiction and has worked out many problems with the Congress.

Mr. Chairman, I know no one who has shown an ability to work with both the House and the Senate as well as Bill Horn has in the past, and I can assure you from what I know of his past performance at this committee and the Energy Committee, on which I also served at one time, all of you will be completely satisfied with his performance. You may not always agree with him, but he will be a person who will respond quickly and in depth in terms of the proposals that are before the Department, and respond to your inquiries, I am certain.

I can tell you that this is a choice that I think is an extremely good one, and I hope that the committee will report his nomination so that it can be considered by the other committee and get to the floor of the Senate as soon as possible.

I'd be glad to answer any questions you might have.

Senator STAFFORD. Senator, we thank you very much for coming over here and introducing Mr. Horn to this committee. Based on our long acquaintance, I can say that what you tell this committee will carry a great deal of weight in our deliberations on reporting Mr. Horn's nomination to the Senate.

Senator STEVENS. I don't think he needs a millstone around his neck, in a positive rather than a negative sense.

Senator STAFFORD. Well, we want the record to show that you're certainly no millstone around anybody's neck, Senator.

We understand that if you have other engagements, you may not be able to stay.

Senator STEVENS. Yes, I'm chairing another committee. I'd be pleased to respond to any comments or questions that you might have.

Senator STAFFORD. All right. Thank you very much, Senator.

Senator STEVENS. Thank you.

Senator STAFFORD. Mr. Horn, before you make whatever statement you might wish at this point, we are informed that members

of your family are here, and we are glad of that and would like to have you given the opportunity to introduce your family members, if you'd care to.

Mr. HORN. Yes, Mr. Chairman, thank you. Please meet my wife, Susan Shekmar; and her parents, Mr. and Mrs. Shekmar, are visiting from Philadelphia.

Senator STAFFORD. Welcome to this hearing.

Now we'd be glad to hear your statement.

STATEMENT OF WILLIAM P. HORN, NOMINEE TO BE ASSISTANT SECRETARY OF INTERIOR FOR FISH, WILDLIFE, AND PARKS

Mr. HORN. Thank you, Mr. Chairman.

Mr. Chairman, distinguished members of the committee, I am William P. Horn and I am honored to appear before you today as President Reagan's nominee as Assistant Secretary of the Interior for Fish and Wildlife and Parks.

If confirmed, it will be a privilege to serve in this position as I have long considered it to be one of the finest jobs in the Federal Government. The opportunity to work on behalf of our vital fish, wildlife, and park resources promises great challenges and rewards, and I pledge to commit my best efforts on behalf of these critical resources.

I have been fortunate to have had a broad range of responsibilities during my career in natural resources, especially during the last 4½ years at the Department of the Interior. In 1982, the President named me to the International Great Lakes Fishery Commission, and I was elected chairman of that body in 1985.

One of my primary responsibilities since 1981 within the Department has been to serve as its chief negotiator in various Indian disputes involving fishing rights, water claims, and land claims. In this context I have participated in the successful settlement of a number of protracted controversies.

And last, I have been charged in the past 4½ years with coordinating the Interior Department's programs in Alaska, principally the Alaska Native Claims Settlement Act and the Alaska Lands Act of 1980.

This professional experience and 7 years working in the House of Representatives has also taught me much about the decisionmaking process, including the need for close consultation with Congress, the value of communication and negotiation, and the recognition of the public's role in the management of its natural resources.

During the past years my door has always been open to those who wanted to chastise me, praise me, or—most importantly—educate me, and I can assure you that my door will remain open and, of course, the telephone operable.

Additionally, Secretary Hodel has pledged to seek to build a national consensus on the broad policy matters within the Department's jurisdiction. I hope to be able to make a significant contribution to that effort.

Beyond my professional responsibilities I have a keen personal interest—you might say a vested interest—in our fish, wildlife and park resources and have long considered myself a conservationist. I

have long been involved in the private sector of the conservation community and, indeed, I sought a career in resource management because of my outdoor avocations. I am hopeful that the heartfelt appreciation that I have for our natural resources will assist me in fulfilling the duties of Assistant Secretary.

It almost goes without saying that our fish, wildlife and park resources are critical. The President recognized this when he made it clear that his first goal for the Interior Department is preservation of the Nation's National Park, wilderness, and wildlife resources. These are unique, irreplaceable treasures of which we are the trustees, and we have a major obligation to manage them carefully so that they may continue to provide the enjoyment and sense of awe that we feel through our children and subsequent generations.

It is imperative, therefore, that the basic integrity of our park and refuge systems be ensured and maintained.

Conservation is also the credo of prudent use, and our natural resources can and must be used to provide us a high quality of life. The renewables must be managed and conserved so that they can continue to produce in the future. The nonrenewable resources must be husbanded and used very judiciously, and it is imperative that resource use be done in a manner that protects the health and well-being of our natural systems. This is not only a matter of simple survival and maintenance of health, but it is necessary to ensure the quality of experience and sense of re-creation that we derive from our natural systems.

Now, our precious resources face growing pressures—economic pressures, population pressures, and such. As I have long believed that necessity is the mother of invention, I am persuaded that the present problems create opportunities for innovative solutions rather than give rise to undue pessimism. When we are pressed, we discover new means to achieve our goals. In critical areas such as land acquisition, visitor services, habitat protection and enhancement, financing and system expansion, efficient new ways of achieving agreed-to objectives must and will be found.

I look forward to working with you and the Congress on the development and implementation of innovations in these critical areas. The opportunity to serve as the Assistant Secretary for Fish, and Wildlife and Parks is exciting. If confirmed, it will be an honor and privilege to work for Secretary Hodel and with the Congress, the States, and the public in protecting, perpetuating, and enhancing the fish, wildlife and park resources that are of great value to America and the envy of the world.

Thank you, Mr. Chairman. I'd like to ask that the entire statement be entered into the record.

Senator STAFFORD. Without objection, your entire statement will be, Mr. Horn, and it was a very good statement.

Mr. Horn, do you know of any interests that you might have, or connections that you might have had or have now that might put you in a conflict-of-interest position if confirmed?

Mr. HORN. No, sir; I'm unaware of any possible conflicts of interest.

Senator STAFFORD. Are you willing, at the official request of any committee of this Congress, to appear in front of it as a witness?

Mr. HORN. Yes, sir.

Senator STAFFORD. There should be no doubt in anyone's mind that this committee is very interested in seeing that section 404 of the Clean Water Act works to protect our vital wetlands resources. You and I have discussed this in my office. Do you see any major barriers to achieving that goal? Or, put another way, do you think the 404 program can be made more effective than it has been?

Mr. HORN. Clearly, the 404 program is vitally important. As we know, we are losing wetlands at the rate of 400,000 to 500,000 acres a year; that's something that our natural systems cannot necessarily tolerate. It's caused us problems in waterfowl and fisheries areas, and the 404 program is one of the critical regulatory tools which permit us to control the use and disposition of these vital wetland resources. I think that the program can be improved. I know that the Department presently is working with the Army Corps of Engineers on renegotiating our memorandum of understanding so that, we think, it gives us a better opportunity to ensure that these vital resources are protected. I know that will be one of my key priorities, to see if we can improve that system and protect these resources better.

Senator STAFFORD. Very good.

There has been a lot of confusion in recent years about whether seasonally flooded bottomland hardwood areas are wetlands to be regulated under section 404. Often, the Fish and Wildlife Service will identify a large area as wetland, but the Corps of Engineers will refuse to regulate most of it under section 404. From an ecological point of view, do you consider these seasonally flooded areas to be wetlands? And if you do, what steps will you take to see that wetlands of all types get the broadest possible protection under section 404?

Mr. HORN. Mr. Chairman, I, not being a biologist by training, am not sure I could make a categorical statement that bottomland hardwoods did constitute wetlands, at least in a legal definition. I know that they are very important in many respects, particularly in the lower Mississippi Valley, and the Service has worked hard to try to ensure the maintenance and protection of these habitats; and I think that, given the biologic value of these areas, it's important that whatever legal definition exists, that steps be taken to try to protect those particular parts of our ecology because of their importance for fish and wildlife.

Senator STAFFORD. All right; we'll accept that answer.

Senator Chafee.

Senator CHAFEE. Thank you, Mr. Chairman.

Mr. Horn, I'd like to pursue the questions that the Chairman has raised regarding section 404. As you know, both of your predecessors, namely Mr. Arnett and Acting Assistant Secretary Potter, both pressed hard to renegotiate the memorandum of understanding with the Corps of Engineers. And you know the results of those; they've been dismal. The Corps of Engineers has hung tough and it sometimes appears they're not prepared to give you yesterday's newspaper. They just won't yield an inch.

Now, the two principal points they've been working on, is, one, that the Assistant Secretary would be allowed to elevate a 404 permit, and the second was the inclusion of environmental impacts as grounds for elevation. Could you give us your thoughts on both

of those points, and then finally, what are you going to personally do about this memorandum of understanding?

Mr. HORN. Let me ask if I can answer them in reverse sequence.

Senator CHAFEE. All right; in any sequence.

Mr. HORN. In terms of personal involvement, I have been fortunate—or unfortunate—to have been involved in negotiating a whole series of very difficult issues during the last 4 years, and I hope that some of the things that I have been able to learn at the negotiating and bargaining table on water claims and fishing rights and land settlements, I could use some of that experience to negotiate a resolution with the Corps of Engineers and Acting Assistant Secretary Dawson on a new MOU that would satisfy both the Corps' legal obligations under 404 and our interests in maintenance of wetlands habitat. So I intend personally to be very much involved in that. I think that it merits the direct personal attention of the Assistant Secretary, given the importance of the resource.

In terms of the specific features of the MOU, I have been briefed by the staff that are presently engaged in the negotiations. I see no reason why environment factors should not be one of the criterion that could be used for elevation purposes; I mean, one of the reasons for the program is to protect these habitats in some manner, and it strikes me as almost necessary that that criterion be built into the elevation process.

In terms of whether or not the Assistant Secretary should have the legal ability to ensure elevation, it strikes me that, regardless of whether or not that specific feature is built into the MOU, as a matter of course if the corps intends to issue a 404 permit, that the Department reaches the conclusion that that's an unwise permit or the corps has arbitrarily not taken into account the biologic information that the Service has provided it, that the Assistant Secretary—almost as a practical matter—by interceding directly with the Assistant Secretary of the Army can achieve elevation or de facto elevation.

So I think, in that sense—I really don't know what the position should be about the specific language in the MOU, but I do know that when these important issues come to the front, I know that I would expect to be in touch with Mr. Dawson or whomever is serving in that position to ensure that our concerns are transmitted to the corps before they make their final decision.

Senator CHAFEE. I don't understand the second part of your answer, that even if it is not in the MOU, the Assistant Secretary has the ability to elevate; that you say that, de facto, you have that power. How can you acieve it, by going directly to the Secretary of the Army? I'm not sure how you suggest that might work.

Mr. HORN. Well, my understanding would be to go directly to the Assistant Secretary for Civil Works at the Army and, as one Assistant Secretary to the other, make it clear that this prospective permit causes problems or this permit that you are about to issue, we do not believe that you have adequately considered the data, the biological data that has been provided by the Fish and Wildlife Service; or the corps, we think, is about to act arbitrarily. That, regardless of what was in the MOU, that as a practical matter, that type of contact would have the effect, in my mind, of—maybe not elevating in the legal sense of the MOU, but elevating in the sense

of ensuring that the principal policymakers and principal decisionmakers are both personally considering the decision to be made.

Senator CHAFEE. In other words, you would go to Mr. Dawson or whoever is there and tell him personally?

Mr. HORN. Yes, sir.

Senator CHAFEE. Well, this is something—let me just read you the five points that Mr. Arnett struggled so manfully to renegotiate. And I think we all know that Mr. Arnett wouldn't be listed in any category as a crazy, wild-eyed liberal; he was somebody who agreed with the views of this administration.

First, he would allow the Fish and Wildlife Service and the corps to resolve the differences before a permit is elevated to the Assistant Secretary level. That seems so simple I can't understand why they wouldn't agree to that; as a matter of fact, I think they have already in the negotiations that are going on between Mr. Potter and Mr. Dawson.

Secondly, to eliminate the threat to elevate the Fish and Wildlife permit, permitting the comments before a decision by the corps is made. I think that's been resolved, as Mr. Potter said.

The next one is allowing the permits to be elevated because of the projected impact on the natural resources. Good Lord, how there can be any problem on that is hard to understand. After all, what are you worrying about? You're worrying about the natural resources. You agree with that?

Mr. HORN. Yes, absolutely. That's one of the fundamental purposes of the program.

Senator CHAFEE. And it seems to me if that's not part of the MOU, it's a zero.

Next, provide that the MOU can be canceled by either party. I think there ought to be a limit of some type in there so that if you get hooked into some deal such as they are now, you ought to be able to get out of it. I think EPA has that arrangement with the corps. So I would hope that you could get some limit, or it's cancelable.

Next, require the corps to review a permit if requested by you. Now, that makes sense; that, of course, is what we were discussing already, and you are talking about; if you can't get it in the MOU, then you can de facto do it.

Mr. HORN. That's correct.

Senator CHAFEE. I'm not so sure that second part's going to work. I'd like to see a struggle to get it in the MOU, myself.

Mr. HORN. I think that I have no intention to change the course of the negotiations that we've been pursuing. They've been clearly worked out as a matter of departmental policy, I think, for good reason that we've taken that position, and those are positions that I would intend to carry out.

My response was that if we cannot achieve everything that we want in the MOU, and that's quite frequently the result of negotiation, that even if we can't have exactly what we want within the context of the memorandum of understanding, that there are still practical alternatives that are available to the Department to ensure that its objectives are at least considered by the corps.

Senator CHAFEE. Mr. Horn, we've tried to get your office, or Mr. Potter's office, and the corps together, and we've had, now, three

hearings. They came before us and explained the problem. We said, "You settle it and come back again." They came back again and hadn't settled it, and we told them to come back again, and they didn't have it settled. So they're coming back again in September.

Now, this is getting to be burdensome for everybody, and I would hope that you would really tackle this problem and get it settled. If you can't, if for some reason Mr. Dawson is obdurate, well, then, I hope you would let us know. Well, you're going to be here to testify on this in September.

Just speaking on behalf of myself, and I know I speak for Senator Mitchell and that subcommittee, we're going to stick at this until that thing is resolved.

Senator STAFFORD. And you're speaking for the whole committee, too, Senator.

Senator CHAFEE. Well, that's encouraging. There's nothing more helpful than having the chairman of the full committee with you. As a matter of fact, if he's not with you, you're in trouble.

So I would hope that you would put that high on your agenda.

Mr. HORN. Mr. Chairman, I can assure you that it is high on the agenda. As I indicated, having had some experience in negotiating difficult issues, I would hope to be able to use some of that experience successfully.

Senator CHAFEE. You're going to need every bit of that experience.

Mr. Potter and Mr. Arnett have worked vigorously to get Fish and Wildlife's mitigation policy into the 404 permit program. Do you support that?

Mr. HORN. Yes, I do.

Senator CHAFEE. And will you work vigorously to advance that in negotiations with the corps?

Mr. HORN. That's another critical element of the Department's current position that I would continue to pursue.

Senator CHAFEE. OK.

The thrust of your Department and your office in the past has been the preservation of the parks and talking about improvements and, indeed, that's where many of the funds have gone toward. But I personally believe that, with this growing population which you talk about and the pressures on the parks, that more has to be done than just putting more roads and more toilet facilities in there. We've got to get more land. Although I commend your goal of doing it through ingenuous new ways, easements or whatever it might be, in many instances it is going to come down to cold, hard cash. Are you prepared to push for new moneys within your Department in order to acquire more parklands?

Mr. HORN. I think that's something that I'm prepared to examine and prepared to examine with an open mind. My first preference, clearly, would be to try to do it in less costly manners, and I've had some measure of success with exchanges and donations and such in Alaska where, in the last 4 years, we've added over 1 million acres of private land to the parks and refuges at no direct cost to the Federal taxpayer, and hope to basically use that experience to some success in our lower 48 units.

But I think that if we find circumstances where exchanges and donations and such just will not work and cannot work, I think I'm

prepared in the course of the budget context to look at whether or not we can justify asking for money and would be prepared to make a case to the Secretary in the budget process if I am persuaded that we basically need some lands and that it would be prudent and economically justified to seek appropriations to acquire some of these needed lands to protect these fundamental resources.

Senator CHAFEE. Well, what about fish and wildlife conservation areas? Refuges? Are you prepared to go seek more of those, too?

Mr. HORN. I think that in the sense that I talk land acquisition, I'm talking for both parks and refuges; however, the one caveat is, of course, on the refuge—well, not the refuge side, but on the migratory bird side we, of course, do have the funds generated by duck stamps running in the $14 million to $16 million a year range that have been the basis of a continual land acquisition program, even during this period of budget constraints.

Senator CHAFEE. What about charging at the refuges, in certain selected refuges. Would the funds be earmarked for acquisition of more?

Mr. HORN. It's something that we're prepared to look at. The President's current budget anticipates us generating some revenues from user fees and entrance fees at most of our units. It's been a very sensitive issue, and we're pledged to work in that direction——

Senator CHAFEE. Why is it sensitive? What's sensitive about it?

Mr. HORN. Well, there are many people who think that charging fees constitutes a barrier that keeps the public from using their lands that have been acquired and maintained at public expense.

Senator CHAFEE. But we do it in parks.

Mr. HORN. Some parks. We presently have a prohibition—we've been frozen on park entrance fees——

Senator CHAFEE. But that's a legislative prohibition.

Mr. HORN. That's correct.

Senator CHAFEE. But I just don't get the difference between a refuge and a park. If we've got trails in parks, in refuges, and we need to acquire more and the land is disappearing, as you yourself mentioned, the wetlands are disappearing, and I don't know what the figure is—what did you say, a half a million acres a year?

Mr. HORN. Somewhere in there; 400,000 to 500,000 acres a year.

Senator CHAFEE. We ought to do something about it, and frankly, as you know, this committee has come forward with some charges at our refuges. And I'd like to get your support for that.

Mr. HORN. It's something that I think I'm very interested in and it's something I'd be prepared to work very closely with the committees on because of the intense congressional interest that has been expressed in these areas over the past years.

Senator CHAFEE. All right.

Well, thank you, and we welcome you to your new job if confirmed, as I suspect you will be.

Mr. HORN. Thank you.

Senator CHAFEE. Thank you, Mr. Chairman.

Senator STAFFORD. Thank you very much, Senator Chafee.

You can see, Mr. Horn, who you will principally be doing business with on this committee, and I join in welcoming you to the

committee and the new responsibility which I think you will be confirmed in shortly.

We have some additional witnesses in connection with Mr. Horn's nomination, but the Chair is going to recognize the fact that one of our ablest and most distinguished Senators, and another former Secretary of the Navy is here, pressed for time. And so, if there is no objection, Senator Warner, we would ask that you introduce Mr. Porter now so that you can get about your other responsibilities and then we'll revert to the hearing for Mr. Horn.

Senator Warner?

STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM THE COMMONWEALTH OF VIRGINIA

Senator WARNER. I thank you very much for the opportunity to introduce this nominee and to interrupt the proceedings. Having served as Mr. Chafee's deputy for 4 years, I've waited at his bended knee for a long time.

Senator CHAFEE. He may have waited, but it was never on bended knee, I'll tell you.

Senator WARNER. Mr. Chairman, Senator Chafee, I am pleased to have the honor today of introducing to you J. Winston Porter, President Reagan's nominee for the position of Assistant Administrator for Solid Waste and Emergency Response of the Environmental Protection Agency.

I think members of the committee will agree that Dr. Porter is stepping forward as a candidate for one of the most difficult jobs in our Federal Government, with responsibility for managing the Nation's complex hazardous waste control programs. These programs, familiarly known as Superfund and RCRA, have as their objectives the protection of human health and environment, matters of critical importance to all Americans. We are anxious to see them implemented vigorously, responsibly, knowledgeably, and effectively.

Dr. Porter brings to the position for which he is nominated an excellent background, as well as extensive technical and management experience. He received chemical engineering degrees from the University of Texas and the University of California. He spent 10 years with the Bechtel Corp., where he managed numerous environmental projects.

I am pleased to note that in 1979, he made the wise decision to make Virginia his home. Since then, he has operated his own management consulting firm. I first met the nominee and his lovely wife, Linda, who is present today, after their move to Virginia. They have two daughters who are present here today.

Dr. Porter has had extensive experience in many phases of environmental engineering and project planning. It is his expressed desire to apply his knowledge to the Superfund activities and other activities, hopefully streamlining procedures and eliminating unnecessary delays.

In short, Mr. Chairman and members of the committee, I think this nominee is ably qualified to take on this position, and I urge the prompt confirmation by the Senate.

I thank the chairman.

Senator STAFFORD. Thank you very much, Senator Warner.

Senator WARNER. Might the nominee introduce his wife and children, please?

Dr. PORTER. Yes. I'd like to introduce my entire family, if I might. My mother and dad are here from Texas today, and my two daughters, Karen and Annis, and my wife Linda. And last, but not least, my mother-in-law, Mrs. Baird, on this side.

Senator STAFFORD. We are happy to welcome them all here, and we appreciate Senator Warner being here to introduce you. What he says will carry great weight with this committee.

Senator CHAFEE. I want to join in the thanks for Senator Warner taking the trouble to be here on behalf of his constituent. As always, he takes excellent care of his constituents, and this is a further instance of it. We thank you for taking the time.

Senator STAFFORD. I've always noted that two former Secretaries of the Navy are always very polite and considerate to each other.

Now we'll revert to Mr. Horn's hearing. We have three witnesses; I suggest they all come to the witness table at once, if they will—Mr. Lynn Greenwalt, vice president for resources conservation, National Wildlife Federation; Mr. William Painter, Washington program director, Defenders of Wildlife; and Mr. Theodore and Mrs. Francoise Gianoutsos of Arlington, VA. If you can all find space there.

Gentleman, and lady, with regret we are going to have to ask you to complete your statements in 5 minutes. If you have written statements that are longer than that, we will place them in the record so that all of the statements will appear. And we're going to use the traffic control system here, which means a green light for 5 minutes and then the red, and I'm going to have to gavel you down if you haven't finished in 5 minutes.

For having said that, and apologizing for the limitations of time, let me start, Mr. Greenwalt, by asking you to be the lead-off witness.

STATEMENT OF LYNN A. GREENWALT, VICE PRESIDENT, RESOURCES CONSERVATION, NATIONAL WILDLIFE FEDERATION

Mr. GREENWALT. Thank you, Mr. Chairman. I am Lynn A. Greenwalt, vice president of the National Wildlife Federation in charge of its Resources Conservation Program. I am pleased to be here representing our 4.5 million members and supporters to discuss the nomination of Mr. William P. Horn for this very important, very critical, extraordinarily vital role in the Federal Government.

This office is one that we feel is important to the success of fish and wildlife conservation nationwide, and therefore the selection of its incumbent is an important one.

Mr. Chairman, the National Wildlife Federation is not prepared to endorse Mr. Horn in an unqualified way. But I would like to say that we believe that there is great hope in his taking this office because of his rather unique background, much of which was discussed earlier. We believe that there is the opportunity, the potential in Mr. Horn for him to exercise his stewardship responsibilities in a positive way. As has been suggested earlier, he has had exten-

sive experience as a negotiator, experience that I think is likely to be extraordinarily vital to him in the months and years to come.

He also has a history of devotion to the conservation of fish and wildlife, personally and professionally. I have known Mr. Horn, at least casually, for many years and know him to be extremely interested in fish and wildlife values, in the fish and wildlife resource, and to have a personal commitment to outdoor activities and a sensitivity to the environment generally. We will expect him to exercise that sensitivity as he carries out his responsibilities. He is hardly a battle-scarred veteran; I submit, Mr. Chairman, that he may get scars beginning shortly, as is perfectly normal in this sort of position.

There are several things with respect to his responsibilities that we believe are fundamentally important, and I would like to touch upon them very briefly.

First of all, and perhaps most important, is the question of protection of the Nation's wetland resources that has been discussed earlier. We are deeply concerned, as I know this committee is, about the fate—the situation—as it relates to wetlands in this country. We will be watching Mr. Horn. We will be prepared to assist Mr. Horn. We will be in constant communication with Mr. Horn on this vital subject.

We are also concerned that the Federal stewardship of our Nation's fishery resources must not be compromised. We must maintain an emphasis on natural productivity of fish in their habitat. We must recognize the important role of habitat in the maintenance of fisheries, both inland and marine. We are deeply concerned that the Fish and Wildlife Service is beginning to lose its involvement in fisheries matters. Said succinctly and almost as a cliche, Mr. Chairman, we want to make sure that fish stay in the Fish and Wildlife Service, and we will work closely with Mr. Horn to this end.

The Fish and Wildlife Service must be encouraged to carry out vigorously and actively and promptly a program to eliminate lead poisoning in waterfowl and other wildlife resources. The Federation feels so deeply about this that, within the last 6 weeks, it filed suit against the United States, the Department of the Interior, on this question. I will not discuss it further because it is an issue well known to this committee and to the public at large. It is a matter about which we are deeply concerned, as the candidate knows.

We are also concerned about major increases in land acquisition funding, as has been discussed earlier. The additions to—the enlargement of—the National Wildlife Refuge System and the National Park System are vital to our interests, and we believe that at least $400 million annually should be devoted to this purpose.

We believe there should be more aggressive, more effective action taken by the Fish and Wildlife Service to protect species of fish and wildlife and plants in peril, those not now protected, those which should be protected under the provisions of the Endangered Species Act.

We are also concerned about the primary mission of the National Wildlife Refuge System. In earlier years of this administration, refuge managers have been asked to alter course to increase economic uses of these resources, a matter about which we have great

concern. More refuges should be created, and no incompatible uses should be allowed.

Once again, we'll be watching him and we'll be prepared to help him, Mr. Chairman.

Senator STAFFORD. Thank you very much for a very good statement, Mr. Greenwalt.

We'll now hear from Mr. William Painter of Defenders of Wildlife.

STATEMENT OF WILLIAM PAINTER, WASHINGTON PROGRAMS DIRECTOR, DEFENDERS OF WILDLIFE

Mr. PAINTER. Mr. Chairman, I am William Painter, Washington Program Director of the Defenders of Wildlife.

The goal of our organization is the preservation, enhancement, and protection of the natural abundance and diversity of wildlife. Our programs focus on endangered wildlife, management of public lands, and promotion of Federal and State wildlife policies and programs that foster healthy, natural communities of wildlife.

As was said by the previous witness, we believe that the position that is being discussed today is of critical importance to the wildlife of our Nation, and we would like to elucidate a few principles that we think the nominee should be following in the position for which he has been nominated.

First, it should be recognized that our planet is faced with a growing rate of extinction and endangerment of plants and animals. The highest priority must be given to this problem, and particular attention must be paid to the protection of habitat critical to endangered wildlife. Certain of our public lands, particularly wildlife refuges would be handled by the nominee. It's the Assistant Secretary's duty to ensure that lands under his jurisdiction will be managed in a way to ensure that the value of the public trust is not depleted, and that the principal of the trust remains self-sustaining.

Uses of national wildlife refuges and parks must always be limited to those which will not interfere with the natural resource values, including the natural flora and fauna which the areas were established to protect.

Federal programs for management of wildlife populations should be based on sound scientific principals of ecosystem management, and should recognize that protecting and restoring the natural abundance and diversity of wildlife can often be best achieved by a policy of nonintervention.

We would like to elucidate some specific policy commitments that we would like to see from the nominee.

With regard to endangered wildlife, it should be recognized that there are nearly 4,000 candidates that have been identified as worthy of consideration for protection under the Endangered Species Act. The Department should commit itself to reviewing this backlog within 10 years, and list candidate species where appropriate. We suggest that the rate of listing, which was about 47 species last year, should be increased within the next 2 years to well over 200 species in order to manage this backlog and prevention extinction of threatened species.

The Assistant Secretary should review implementation of section 7, the provision for interagency consultation, to ensure that Interior's recommendations to other agencies are heeded and that recovery, not further deterioration, of species is attained. He should also establish a program to monitor candidate species, confer with other agencies about candidate species, and list candidates more expeditiously.

Recovery plans for endangered species are now all too often paper recommendations simply gathering dust on shelves. Implementation for all existing recovery plans should be initiated within the next 2 years. This should include monitoring the populations and taking actions necessary to reverse population declines.

The Assistant Secretary should also, in our belief, implement in fiscal year 1986 improvements in plant protection, such as those that have been outlined in H.R. 1027, the Endangered Species Reauthorization Bill.

We would reiterate the concern that has been expressed about the administration's failure to request appropriations from the Land and Water Conservation Fund for the acquisition of lands for refuges, particularly refuges dealing with endangered species, such as the highly endangered Florida panther, and would hope that this policy of recommending a 3-year freeze on acquisition of refuges would be reversed.

In dealing with wildlife on public lands, we would note that during the last 4 years, threats to the National Wildlife Refuge System have increased greatly as a result of programs and policies initiated earlier in this administration. In order to restore the needed protection to the Nation's refuges, the Department should withdraw the July 1982 instructions to increase commercial development on refuge lands; give high priority to obtaining funding and personnel needed to eliminate the over 7,000 threats to refuges identified in the Department's 1982 survey of refuge field stations; prohibit oil and gas leasing on refuge lands in the lower 48 States, except where there are valid existing rights, and limit the development of those resources in manners that will be consistent with the protection of the refuge and its resource; and immediately support an aggressive land acquisition program by requesting and spending additional Land and Water Conservation funds.

Senator STAFFORD. Can you conclude?

Mr. PAINTER. I can conclude, yes.

In my written testimony we express concern about the record of this Department in dealing with Alaska lands issues, and are particularly concerned with regard to the role that the nominee has played in these decisions regarding Alaska, which we believe placed far too much emphasis on development of natural resources and far too little on protection of wildlife and wild lands.

In summary, we are concerned about the record that has been shown to date by the nominee. We hope that in the future, if he is confirmed to this post, that we will see changes in the approach to the management of wildlife resources, with a far greater emphasis on resource protection and less on resource development.

Thank you very much.

Senator STAFFORD. All right, thank you very much, sir.

Now, Mr. Gianoutsos, we'd be pleased to hear from you.

STATEMENT OF THEODORE N. GIANOUTSOS, ARLINGTON, VA

Mr. GIANOUTSOS. Thank you very much, Mr. Chairman. Francoise has gone on to the other committee; Jim Beirne suggested that one of the two of us be available for that committee.

This is her oral testimony and I will read it. We would both ask that our written statement with attachments, be included in the record.

Senator STAFFORD. They will be included in the record.

Mr. GIANOUTSOS. Thank you, sir.

STATEMENT OF FRANCOISE GIANOUTSOS

Mr. Chairman, thank you for allowing Ted and me to testify at today's hearing. Of the 33 members of both committees holding today's hearing, 17 Senators, including Chairman Stafford and Chairman McClure, were co-sponsors of the legislation to establish the National Fish and Wildlife Foundation.

I might also add, Senator, that the distinguished Senator from Virginia that was just here, Senator John Warner, our Senator from Virginia as well as Senator Trible, were also cosponsors and our Congressman also here today, Frank Wolf, was also a cosponsor.

Mr. Chairman, we know that you are as concerned as we are about the sabotage of the Foundation and Mr. Horn's role in it. Bill Horn was the principal author of President Reagan's signing statement in which the President called the Foundation "an unwise and dangerous precedent." When Bill Horn was asked the meaning of the signing statement, he said, "It's just some bullshit for the President's signature so that he can show his disapproval of the Foundation." Later, in an exclusive interview, in the Oval Office, with the National Wildlife Federation, President Reagan cited the Foundation as the example of private sector initiative for wildlife conservation and said, "We've pioneered (it)". Which side of the President's mouth speaks the truth?

Gentlemen, you know how unusual that signing statement is, especially when viewed in the context of a noncontroversial, unanimously-passed bill, with 60 cosponsors, including the leadership of both parties and both Houses, and 22 chairmen. You know it for what it is—a mean-spirited, vindictive demonstration of fanatical partisanship.

You also know that we have been the victims of many such expressions of fanatical partisanship merely because we happen to be outspoken Democrats and, in the minds of the fanatics—the Wattses, the Devines, and others like them—we are not to be allowed the privilege and honor of serving our country.

Senators, I know something about political fanaticism. I was born and raised in Europe, where I saw, first hand, the consequences of fanaticism—namely, socialism, communism, and fascism. Gentlemen, I did not emigrate to America to be illegally prevented from serving my adopted country for 21 months by fanatics. I did not come to America to watch my husband, who volunteered for 4 years of military service and served 3 years overseas, be illegally fired and escorted under armed guard from Interior, be investigated as a Communist subversive, and be prevented from serving his country for 21 months by fanatics. I did not come to America and give my entire estate to my country, and I did not found, along with my husband, Ted, the National Fish and Wildlife Foundation to see our patriotic acts denigrated by the likes of Watt and Devine and sabotaged by Bill Horn.

In sum, I did not come to America to be, with my husband, victimized by the Reagan administration for more than 1,260 days, and still counting. Such political fanaticism, small-mindedness, and retaliatory vindictiveness has no place in our democracy. Senators, you should be among the first to stand up and speak out against it. You now have that opportunity. Strike a blow for freedom. Reject Bill Horn, a man who has violated the code of ethics for Government service and clearly demonstrated his contempt for the public trust placed in him.

Senator Stafford, I also wish to say to you that yesterday I was called twice by a member of the staff of this committee, Mr. Hurley, and threatened not to appear today. In the first conversa-

tion, Mr. Hurley said to me, "I don't want to be heavy-handed about this, but I strongly suggest that you only submit your written statement and do not come to testify" When I asked why, he said, "Because there's nothing in your statement, and I am not going to waste the time of 15 Senators because of some crazy guy who is bitching about being fired from Interior."

During the second conversation—he called 3 hours later—he told me that he had consulted with both the majority chief counsel, and the minority chief counsel, and they—along with him—did not want us to appear today.

Mr. Stafford, please, this type of behavior is exactly what we have been indicating in our statement. It is precisely the type of behavior that has been responsible for us being prevented from serving our country for 42 months. Senator, you are a cosponsor of this legislation——

Senator STAFFORD. Well, Mr. Gianoutsos, I think I should interrupt to say that whatever you may have been told, you are here and we are listening to you.

Mr. GIANOUTSOS. Yes, sir; that's true. But everything was done to prevent us from being here.

Senator STAFFORD. But you were not prevented from being here. Do you want to summarize now, please?

Mr. GIANOUTSOS. Senator, I have summarized our written statement.

I ask only that the committee carefully consider this nomination.

Senator STAFFORD. All right. Thank you very much. The committee will certainly weigh what you've told us this morning. And we thank all of the witnesses for appearing here in connection with the Horn nomination.

[Statements submitted for the record, responses from Mr. Horn to a committee questionnaire, and responses to written questions follow:]

STATEMENT OF HON. TED STEVENS, U.S. SENATOR
FROM THE STATE OF ALASKA

MR. CHAIRMAN, TODAY I HAVE THE GREAT PLEASURE TO INTRODUCE MY GOOD FRIEND BILL HORN TO THE MEMBERS OF THE COMMITTEE. BILL IS THE PRESIDENT'S NOMINEE FOR THE POSITION OF ASSISTANT SECRETARY OF THE INTERIOR FOR FISH AND WILDLIFE AND PARKS.

BILL HAS WORKED ON NATURAL RESOURCE ISSUES MOST OF HIS ADULT LIFE. DURING THE LONG DEBATE OVER THE MANAGEMENT OF ALASKA'S FEDERAL LANDS, HE SERVED AS A MEMBER OF THE HOUSE INTERIOR AND INSULAR AFFAIRS COMMITTEE STAFF AND DEVELOPED A DETAILED KNOWLEDGE OF ALASKA'S GEOGRAPHY AND NATURAL RESOURCES. THIS KNOWLEDGE ENABLED HIM TO PLAY A KEY ROLE IN THE ULTIMATE RESOLUTION OF THE LANDS CONTROVERSY.

WHEN BILL MOVED TO THE INTERIOR DEPARTMENT IN 1981 AS DEPUTY UNDER SECRETARY, HE TOOK ON THE IMMENSE TASK OF SUPERVISING THE IMPLEMENTATION OF THE ALASKA LANDS ACT. HIS MANY ACCOMPLISHMENTS IN ALASKA INCLUDE THE ESTABLISHMENT OF AN INTERIOR DEPARTMENT PRESENCE IN EACH OF THE NEW CONSERVATION SYSTEM UNITS CREATED BY THE LANDS ACT, THE ADDITION OF MORE THAN A MILLION ACRES TO THE ALASKA PARKS AND REFUGES WITHOUT THE EXPENDITURE OF FEDERAL FUNDS, THE SETTLEMENT OF THE COMPLICATED CHUGACH NATIVE LAND CLAIMS, AND THE CREATION OF A PROGRAM TO EXPEDITE CONVEYANCE OF STATE AND NATIVE LANDS GRANTED BY THE STATEHOOD ACT AND THE ALASKA NATIVE CLAIMS SETTLEMENT ACT.

BILL HAS DEALT WITH MANY CHALLENGING ISSUES IN OTHER AREAS OF OUR NATION. HE MADE AN IMPORTANT CONTRIBUTION TO

THE SUCCESSFUL PACIFIC NORTHWEST SALMON TREATY NEGOTIATIONS AND HAS BEEN INSTRUMENTAL IN THE SETTLEMENT OF INDIAN FISHING AND WATER CLAIMS IN THE GREAT LAKES REGION AND ARIZONA. HE CURRENTLY SERVES AS CHAIRMAN OF THE GREAT LAKES FISHERY COMMISSION.

DURING HIS TENURE AS DEPUTY UNDER SECRETARY, BILL HAS BECOME WELL KNOWN FOR HIS DEDICATION TO THE PUBLIC INTEREST AND THE GOALS OF CONSERVATION, HIS MASTERY OF THE SUBSTANCE OF COMPLEX NATURAL RESOURCE ISSUES, HIS OPENNESS AND FAIRNESS IN DEALING WITH INDIVIDUALS OUTSIDE THE INTERIOR DEPARTMENT, AND HIS WILLINGNESS TO TRY INNOVATIVE SOLUTIONS TO APPARENTLY INTRACTABLE PROBLEMS. THESE ARE EXACTLY THE PERSONAL QUALITIES THAT AN ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS NEEDS TO BE SUCCESSFUL IN AN ERA OF TIGHT FEDERAL BUDGETS AND CONTINUING CONCERN ABOUT THE DIRECTION OF THE NATIONAL PARKS AND WILDLIFE REFUGES IN THE LOWER 48 STATES.

BILL WILL BE A STRONG AND EFFECTIVE ADVOCATE FOR THE PARKS AND WILDLIFE REFUGES. AT THE SAME TIME, HE WILL BE RESPONSIVE TO THE CONCERNS OF THE CONGRESS AND OF THE LOCAL RESIDENTS WHO ARE AFFECTED BY FEDERAL LAND MANAGEMENT DECISIONS. ABOVE ALL, HIS APPROACH WILL BE POSITIVE. HE WILL LOOK FOR SOLUTIONS RATHER THAN SIMPLY COMPLAIN ABOUT PROBLEMS.

MR. CHAIRMAN, I'VE KNOWN BILL HORN AND HIS FAMILY FOR MANY YEARS. AS A FORMER SOLICITOR OF THE INTERIOR AND A LONG-TIME MEMBER OF THE INTERIOR APPROPRIATIONS

SUBCOMMITTEE, I AM ALSO QUITE FAMILIAR WITH THE OPERATIONS OF THE INTERIOR DEPARTMENT. IN MY OPINION, THERE IS NO ONE BETTER QUALIFIED THAN BILL FOR THE POSITION OF ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS. HE WILL DO A SUPERB JOB, AND I HOPE THAT COMMITTEE WILL ACT POSITIVELY ON HIS NOMINATION IN THE VERY NEAR FUTURE.

THANK YOU FOR GIVING ME THE OPPORTUNITY TO SPEAK TO YOU TODAY. WITH YOUR PERMISSION, MR. CHAIRMAN, I'D LIKE TO SUBMIT FOR THE HEARING RECORD A STATEMENT FROM SENATOR MURKOWSKI IN SUPPORT OF BILL HORN'S NOMINATION.

STATEMENT

OF

SENATOR FRANK H. MURKOWSKI

BEFORE THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ON THE NOMINATION OF

WILLIAM P. HORN

TO BE

ASSISTANT SECRETARY OF INTERIOR FOR FISH AND WILDLIFE AND PARKS

JULY 24, 1985

MR. CHAIRMAN, BILL HORN HAS MORE THAN 15 YEARS OF EXPERIENCE WORKING WITH NATURAL RESOURCE ISSUES IN THE DEPARTMENT OF INTERIOR, THE DEPARTMENT OF COMMERCE AND THE HOUSE INTERIOR COMMITTEE. FOR THE LAST FOUR AND HALF YEARS HE HAS SERVED AS THE DEPUTY-UNDERSECRETARY OF INTERIOR WITH PRIMARY RESPONSIBILITY FOR IMPLEMENTING THE ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT AND FOR COORDINATING THE DEPARTMENT'S PROGRAMS IN ALASKA.

AS THE CHIEF SPOKESMAN IN INTERIOR ON ALASKAN ISSUES, BILL ACHIEVED A REPUTATION FOR FAIRNESS, INTEGRITY, AND PROFESSIONALISM. HE CONTINUALLY DEMONSTRATED HIS UNDERSTANDING OF THE COMPLEXITY OF THOSE ISSUES AND THE NEED TO ACHIEVE A BALANCE BETWEEN THE DEMANDS MADE BY COMPETING INTERESTS.

AS ASSISTANT SECRETARY, BILL WILL BE IN CHARGE OF OUR NATIONAL PARKS PROGRAMS AND FISH AND WILDLIFE PROGRAMS. THIS IS A PARTICULARLY IMPORTANT POSITION FOR ALASKA BECAUSE WE HAVE 57 MILLION ACRES OF NATIONAL PARKS AND 75 MILLION ACRES OF WILDLIFE REFUGES. TWO-THIRDS OF OUR NATIONS NATIONAL PARK ACREAGE AND NEARLY THREE-QUARTERS OF OUR WILDLIFE REFUGE LAND IS IN ALASKA. I THINK IT IS INTERESTING TO REFLECT ON THE FACT THAT 15 PERCENT OF THE LAND IN ALASKA IS IN THE NATIONAL PARK SYSTEM AND MORE THAN 20 PERCENT IS IN THE NATIONAL WILDLIFE REFUGE SYSTEM. AS SUCH, BILL HORN WILL HAVE JURISDICTION OVER 35 PERCENT OF THE LAND IN MY STATE. HIS DECISIONS WILL HAVE AN IMMENSE IMPACT ON ALASKANS. BECAUSE OF HIS PAST EXPERIENCE WITH ALASKAN ISSUES, I

AM CONFIDENT THAT THOSE DECISIONS WILL REST UPON A SOUND UNDERSTANDING OF ALASKA'S UNIQUE NATURE.

IN ADDITION TO HIS RESPONSIBILITIES FOR ALASKA PROGRAMS, BILL HAS SERVED ON THE INTERNATIONAL GREAT LAKES FISHERY COMMISSION AND HAS BEEN THE DEPARTMENT'S CHIEF NEGOTIATOR ON SEVERAL DISPUTES INVOLVING INDIAN FISHING, AND LAND AND WATER CLAIMS. HIS DEDICATION TO THE GOAL OF ACHIEVING A FAIR RESOLUTION AND HIS PERSONAL INVOLMENT RESULTED IN SETTLEMENT OF A NUMBER OF PROTRACTED CONTROVERSIES. AMONG THESE WAS THE U.S./CANADA SALMON TREATY WHICH HAD BEEN NEGOTIATED ON AND OFF FOR THE PAST 20 YEARS UNTIL BILL GOT INVOLVED AND BROUGHT ABOUT A FAVORABLE RESOLUTION.

HIS RECORD OF SUCCESS IN RESOLVING THESE VERY CONTROVERSIAL DISPUTES IS INDICATIVE OF THE SKILLS WHICH HE BRINGS TO HIS WORK.

BILL'S PROFESSIONAL EXPERIENCE WILL BE A SIGNIFICANT ASSET TO THE DEPARTMENT OF INTERIOR AND TO THIS NATION IN THE COMING YEARS. OUR NATIONAL PARKS ARE FACED WITH EVER INCREASING USE BY THE PUBLIC AT THE SAME TIME THAT GENERAL REVENUE FUNDING FOR THE MAINTAINENCE OF THOSE PARKS IS SHRINKING. BALANCING THE DEMANDS OF THE PUBLIC WITH THE NEED TO REDUCE THE FEDERAL DEFICIT AND PROTECT THE NATURAL RESOURCES ENSHRINED IN THE NATIONAL PARKS AND WILDLIFE REFUGES WILL REQUIRE CONSIDERABLE SKILL AND ABILITY. BILL HORN HAS DEMONSTRATED THAT HE POSSESSES THESE QUALITIES IN ABUNDUNCE.

MR. CHAIRMAN, I CAN THINK OF NO OTHER NOMINEE THAT BRINGS WITH HIM THE CREDENTIALS THAT BILL HORN BRINGS BEFORE THIS COMMITTEE. I ENCOURAGE YOU AND THE OTHER MEMBERS OF THE COMMITTEE TO GIVE HIM YOUR MOST FAVORABLE CONSIDERATION.

THANK YOU.

Statement Before Senate Committee on

Environment and Public Works

Wednesday, July 24, 1985

Mr. Chairman, distinguished Members of the Committee: I am William P. Horn and I am honored to appear before you as President Reagan's nominee as Assistant Secretary of the Interior for Fish and Wildlife and Parks. If confirmed, it will be a privilege to serve in this position since I consider it to be the finest job in the Federal Government. The opportunity to work on behalf of our vital fish, wildlife, and park resources promises great challenges and rewards, and I pledge to commit my best efforts on behalf of these critical resources.

I have been involved in natural resource issues for 15 years. For seven years, I worked for Congress on environment and energy matters including four years on the staff of the House Committee on Interior and Insular Affairs. During that particular period, I worked with this committee. I hope that this past contact will provide the basis for a close working relationship between us.

In addition, I have served six years in the executive branch, primarily with the Department of the Interior. There I have been involved in myriad issues including Pacific Salmon negotiations in the northwest, Indian water claims in the southwest, the Great Lakes fisheries management and Alaska energy and environmental

issues. My tenure as Deputy Under Secretary has taught me much about the issues I will face if confirmed.

I have been fortunate to have had a broad range of responsibilities during the last 4 1/2 years. In 1982, the President named me to the international Great Lakes Fishery Commission and I was elected chairman in 1985. In this capacity, I have had the opportunity to work on our major fishery programs in the Great Lakes with eight States, the Province of Ontario, and the Government of Canada. One of my primary responsibilities as Deputy Under Secretary has been to serve as the Department's chief negotiator on various Indian disputes involving fishing rights, water claims, and land claims. In this context, I have participated in the successful settlement of a number of protracted controversies. These include the U.S.-Canada Pacific Salmon treaty and its ancillary domestic agreements, the Michigan Great Lakes treaty fishing agreement, the Chugach native land claims in Alaska, and major Indian water settlements involving the Ak-Chin, Ft. Peck, and Papago tribes. Lastly, I have been charged with coordinating the Department's programs in Alaska principally involving the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act. This last effort

has made me intimately familiar with National Park and National Wildlife Refuge matters as nearly two-thirds of our Park system acreage and three-quarters of our refuge system lands are located in Alaska. In this capacity, I have negotiated a series of land exchanges, selection relinquishments and donations that have added approximately 1.2 million acres to our Park and Refuge systems at no cost to the Federal Treasury.

My professional experience has also taught me much about the decisionmaking process including the need for close consultation with Congress, the value of communication and negotiation, and the recognition of the public's role in the management of its natural resources. During the past years my door has always been open to those who wanted to chastise, praise, or--most importantly--educate me I can assure you that my door will remain open (and the telephone operable). Additionally, Secretary Hodel has pledged to seek to build a national consensus on the broad policy matters within the Department's jurisdiction. I hope to be able to make a significant contribution to that effort.

Beyond my professional responsibilities, I have a keen personal interest--almost vested interest--in our fish, wildlife, and park resources and have long considered myself a conservervationist. I have been a avid angler since I was a child and have committed

many volunteer hours during the past 15 years working on behalf of our cold water fisheries.

Similarly, I am a bird hunter and have been an active member of organizations committed to conserving and ennancing our wildlife. I sought a career in resource management because of these avocations and I am hopeful that the heartfelt appreciation I have for the out-of-doors will assist me in fulfilling the duties of Assistant Secretary.

It almost goes without saying that our fish, wildlife, and parks are critical. The President recognized this when he made it clear that his first goal for the Department is preservation of the Nation's national park, wilderness, and wildlife resources. These are unique, irreplaceable resources of which we are only the trustees. We have a major obligation to manage them carefully so that they may continue to provide the enjoyment and sense of awe that we feel to our children and subsequent generations. It is imperative, therefore, that the basic integrity of our Park and Refuge systems be ensured.

Conservation is the credo of prudent use and our natural resources can and must be used to provide us a high quality of life. The renewables must be managed and conserved so that they can continue to produce. The non-renewable resources must be husbanded and used judiciously. And it is imperative that resource use be done in a manner that protects the health and well-being of our natural systems. This is not only a matter of simple survival but is necessary to ensure the quality of experience and sense of re-creation that we derive from our natural systems.

Despite growing knowledge and improvements in our ability to scientifically manage our resources, a sense of pessimism has arisen from some quarters of the natural resources community. There is fear that increased population and the popularity of some of our park and wildlife resources will overwhelm them. Add to that the economic reality faced by government land managers, and some are sure that doom is imminent. I beg to disagree. I have long believed that "necessity is the mother of invention" and am persuaded that our present problems create opportunities for innovative solutions. When pressed, we discover new means to achieve our goals. In critical areas such as land acquisition, visitor services, habitat protection and enhancement, financing, and system expansion, efficient new ways of achieving agreed to objectives must and will be found. Let me add that I believe most

of us sense a new "can do" attitude in the National Park Service. I hope to take advantage of that frame of mind and look forward to working with you and the Congress on the development and implementation of innovations.

The opportunity to serve as the Assistant Secretary of Fish, and Wildlife, and Parks is exciting. If confirmed, it will be an honor and a privilege to work for Secretary Hodel and with Congress, the States, and the public in protecting, perpetuating, and enhancing the fish, wildlife, and park resources that are of great value to America and the envy of the world.

Thank you.

51-578 O—85——2

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

July 26, 1985

Honorable Robert T. Stafford
Chairman, Committee on Environment
and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed are the questions and answers submitted in response to yesterday's hearing before your committee regarding my nomination as Assistant Secretary for Fish and Wildlife and Parks.

Please contact me if any additional information is required.

Sincerely,

William P. Horn

William P. Horn
Deputy Under Secretary

Enclosures

RESPONSE TO QUESTIONS FROM
SENATOR SIMPSON:

1. I am interested in your views about grizzly bear management as it relates to the Endangered Species Act. The grizzly is a "threatened" species under the Act—a different classification than "endangered." How would management practices for a threatened species be handled under your direction and how would these practices be contrasted with management of endangered animals?

Answer: For the grizzly bear, or for any other listed species, the Endangered Species Act (ESA) provides considerably broader management flexibility under a "threatened" classification than under an "endangered" classification. When a species is classified as endangered, all prohibitions of the ESA apply and permits may only be issued for activities for scientific purposes or for the enhancement of propagation or survival. For threatened species, however, the ESA provides for issuance of special regulations that allow a greater range of permissible activities, such as removal of nuisance bears and even a limited sport hunting take under certain conditions.

2. How do you feel about "active" management practices for Yellowstone Park? By this I mean the use of man-caused, controlled burns to clear out overly mature and diseased trees to enhance grizzly habitat.

Answer: I understand that the National Park Service is developing a prescribed burn policy for overall habitat management in Yellowstone National Park. Grizzly bears are just one of the considerations in developing the plan. My specific reaction to active management proposals would be principally dependent on the advice which I will receive from professional resource managers.

RESPONSE TO QUESTIONS FROM
SENATOR BURDICK

1. The North Dakota State Government has actively pursued a resolution of problems which have developed between the United States Fish and Wildlife Service (FWS), state political entities, and local landowners on acquisition policies under the migratory bird conservation fund. The State Legislature has requested a management plan between the State and the Secretary of the Interior which would address (1) the extent and general location of all proposed acquisitions, (2) the management of all such lands, whether already acquired or to be acquired, and (3) the relationship of such acquisitions to federally financed or permitted projects. In addition to this State request, the United States Congress included similar language in Section 318 of P.L. 98-473, Stat. 1837.

Please provide my office with a brief description on the status of that request and key points to be covered under the management plan.

Answer: The FWS, working cooperatively with the North Dakota Game and Fish Department, has developed the plan which addresses the extent and general location of proposed acquisitions, the management of such lands, and the relationship of such lands to Federally financed or permitted projects. The plan has been approved by the Director and a copy provided to the Governor. Preliminary indications are that the State would like to see some changes or additions to that plan. Regional Director Buterbaugh, in a July 24, 1985, letter to the Governor, set into motion a process that will lead to discussions and revisions to the plan, if necessary.

2. Considerable confusion exists with respect to the number of acres subject to federal easements in North Dakota. This is because prior to 1976, wetlands subject to particular easements were not mapped as part of the official documentation. At the State's request, FWS estimated the cost of a full delineation study between $10 million and $13 million.

The State recognized that total delineation may not be necessary. I would hope that the Service could work out an agreement with the Governor on how to proceed with the delineation request. I think that an individual's request should have paramount importance with the State and the Service. Some areas of the State, particularly the Devils Lake Basin, have an inherent conflict with the easements because drainage has been an acceptable practice for over 100 years. In those areas, I would suggest that the Service map the entire watershed. Does the Service plan on requesting funds in the FY 1987 budget for this purpose?

Answer: The FWS did complete a pilot study to determine the feasibility of mapping pre-1976 wetland easements. The procedures used in that pilot study were developed in cooperation with the State. A copy of the results of the study has been provided to the Governor. The Governor, in a June 7, 1985, letter to the Secretary of the Interior, indicated a willingness to provide for delineation of easements only on a case-by-case basis when requested by landowners or the State. I would concur with that approach. Regional Director Buterbaugh, in the July 24, 1985, letter to the Governor, set into motion a process that will define the specific procedures and lead to an agreement between the FWS and the State. A eas within the Devils Lake Basin would, then, be delineated upon request from individual landowners or the State. Additional funding and manpower will be required to implement the mapping process, but the amounts needed will not be known until the FWS and the State have worked out the details.

3. It is my understanding that FWS is operating under an internal directive to revise its administrative procedures for acquiring waterfowl production areas. This action has been taken because FWS recognizes the fact that perpetual easements in the long-term will not meet the Federal Government's objectives. It is expected that FWS will have its draft report available for consideration within several months. The report is expected to cover a wide range of options, including short-term contracts with landowners to take land out of production for a duck habitat in exchange for an annual rent payment. Other options include limiting easements to 15 to 25 years and different payment plans.

Regarding payment plans, I would encourage full consideration of annual payments for the duration of the lease rather than a lump-sum payment. Advantages of annual payments are (1) Some landowners are agreeing to sell easements because of economic hardship. While these landowners are willing sellers, economic pressures have necessitated involvement in a program which affects the manner in which they can carry out future land activities. Elimination of the one-time payment would curb the "windfall" perspective. Landowners having a more immediate need for cash could borrow against this guaranteed income. (2) FWS would have more flexibility in implementing program options because less funds would be tied up in longterm commitments.

(a) Considering the Committee's interest in wetland pereservation, I would appreciate it if the Service could furnish Members with a copy of the report as soon as it becomes available.

(b) In addition, I would like Mr. Buterbough to brief Committee staff on the report the next time he is in Washington.

Answer: An issue paper regarding methods to preserve waterfowl breeding habitat in North Dakota and other prairie pothole states is currently under review by the FWS Washington Directorate. This action was taken because of requests by landowners for alternative preservation methods that are responsive to their individual needs. However, the Fish and Wildlife Service considers fee and perpetual easements to be the cornerstone of the acquisition program. A full evaluation of other methods is not yet complete, but I am highly interested in alternatives. I have asked that Director Jantzen furnish the Committee copies as soon as the Service has evaluated all the proposed alternatives and that Mr. Buterbaugh schedule a briefing for all members on this issue.

4. I have received numerous constituent inquiries on the Fish and Wildlife's interpretation of easements. On several occasions, I have found legitimate complaints where the agent negotiating the easement misrepresented what acceptable farming practices were allowable under terms of the easement or there was an obvious misunderstanding. I expect these inquiries to increase as land changes ownership, and I feel that there should be an easier method of resolving complaints besides a criminal court proceeding. I am concerned that individual landowners may not be comfortable in discussing alleged violations with the Service or a special agent representing the U.S. Attorney. As a result, an individual may not adequately safeguard their personal interests or rights.

Would the Service object to establishing a dispute resolution process prior to bringing a criminal charge for alleged violations?

Answer: I am assured there is an existing appeals procedure that can be used should a landowner disagree with the position of a refuge manager or special agent and want another opinion. A new dispute resolution process, therefore, does not appear to be necessary. However, I have an open mind on this matter and believe it merits additional considerations.

5. As landowners, the Federal Government has a responsibility to make payments in lieu of taxes. Historically, insufficient funds have been requested by the President and appropriated by the Congress to make full payments. If needed federal acquisition is to proceed without opposition, the payment in lieu of taxes program must be fully funded. The State and its political subdivisions are concerned that in Fiscal Year 1986, the Office of Management and Budget has requested only 54 percent of the funds required.

Please provide for the record a state-by-state summary comparing the amount requested by the Service, OMB's recommendation, and congressional appropriation. In addition, I would like an explanation on how the Service determines the payment in lieu of taxes.

Answer: The table below shows the history of requests for supplementary appropriations for revenue sharing purposes since 1981. The amounts are not broken down by individual States during the budget formulation and so are not shown that way. The total funding available (net refuge receipts plus appropriations) among the States are shared on a pro-rata basis if they are insufficient to make full payments.

The amount of payment to individual counties is based on the acreage of Fish and Wildlife Service acquired lands and the greatest of 1) three fourths of one percent of the fair market value, 2) twenty five percent of net receipts or 3) a minimum of seventy five cents per acre. These acquired lands are reappraised on a five year cycle. Lands withdrawn from the public domain are entitled to twenty five percent of net receipts, plus they become entitlement lands under the payment in lieu-of-taxes program administered by the Bureau of Land Management.

U.S. Department of the Interior
Fish and Wildlife Service
Refuge Revenue Sharing Payments
FY 1981 thru FY 1986

Fiscal Year	Appropriation Request	OMB Recommendation	Amount Appropriated
1981	9,500,000	9,500,000	8,500,000
1982	---	---	5,760,000
1983	---	---	5,760,000
1984	5,760,000	5,760,000	5,760,000
1985	5,760,000	5,760,000	5,644,800
1986(EST)	5,645,000	5,645,000	---

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ROOM 410 DIRKSEN BUILDING WASHINGTON, DC 20510

INFORMATION

REQUESTED OF PRESIDENTIAL NOMINEES

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and twenty-five (25) copies of the requested information should be made available to Honorable Robert T. Stafford, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC 20510 (Attn: Staff Director) as soon as possible.

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Horn (Last) William (First) Pierce (Middle)

Position to which nominated: Assistant Secretary-Fish and Wildlife and Parks

Date of Nomination: June 21, 1985

Date of birth: 16 (Day) 12 (Month) 50 (Year)

Place of birth: Dover, Deleware

Marital status: Married

Full name of spouse: Susan Elizabeth Shekmar

Name and ages of children:

Michael William	2 years
Alexander James	6 months

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Washington College of Law--American University	8-79/5-83	J. D.	1983
American University Washington, D.C.	9-69/5-72	B. A.	1972
Summit High School Summit, New Jersey	9-65/6-68	High School Diploma	1968

Employment record: List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

1. Deputy Under Secretary. Primary responsibilities include (1) direction and coordination of all Alaska programs, (2) serving as Chief Negotiator for the Dept. on Indian water claims and fishing disputes, and (3) serving on the International Great Lakes Fishery Commission, presently serving as Chairman (per appointment by the President). January 1981-Present
2. Minority Consultant, Committee on Interior and Insular Affairs, U.S. House of Representatives. Handled the Alaska lands issues for Interior Committee Republicans. Also periodically detailed to Sen. Stevens (R-Ak.) to assist on lands issues. January 1977 - January 1981.
3. Special Assistant to the Assistant Secretary--Land and Water Resources U.S. Department of the Interior. Served as an assistant covering policy for offshore oil and gas development, Federal coal management, and Alaskan oil and gas matters. February 1976 - January 1977.

Employment record—Continued

4. Special Assistant to the Secretary of Commerce. Served Secretary Rogers C. B. Morton in his capacity as Chairman of the President's Energy Resources Council. Work involved all aspects of energy policy development and implementation within the Administration. June 1975 - January 1976.

5. Acting Executive Director, House Republican Confence, U.S. Congress. Served for a four month appointment in 1975. Responsibilities involved management of the Conference Staff, staff work for the House GOP leadership, and development of legislative issues and materials for House Republicans. Previously served as the Energy and Resources assistant on the staff. September 1972 - 1975.

Honors and awards

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

U. S. Dept. of Interior Outstanding Service Award, 1985.

International Academy of Trial Lawyers Advocacy Award,

Washington College of Law, 1983.

Named an Outstanding Young Man by Jaycees, 1975.

Member, Omicron Delta Kappa, Academic/Service Honorary 1972

Member, Pi Sigma Alpha, Political Science Honorary, 1972.

Memberships

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
Trout Unlimited	1969 - Present	President--D.C. Chapter 1977 - 1978
Ruffed Grouse Society	1981 - Present	-
Ducks Unlimited	1984 - Present	-
D. C. Bar	1983 - Present	-
American Bar Association	1983 - Present	-

Qualifications.

State fully your qualifications to serve in the position to which you have been named.

See attached sheet.

Future employment relationships.

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Presently work in the Department of the Interior.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

No

3. Has anybody made a commitment to you for a job after you leave government?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

N/A

William P. Horn

Qualifications: I have been professionally and personally involved in natural resource management issues for over 13 years. During this period I have held positions as staff in the U.S. House of Representatives, including the Interior and Insular Affairs Committee, and at the Department of the Interior.

I have had a long term personal involvement in fish and wildlife matters including memberships in conservation organizations such as Trout Unlimited, the Ruffed Grouse Society, and Ducks Unlimited. This activity has given me an understanding of important wildlife management and wildlife habitat issues as well as sharpened my personal interest and commitment to resource conservation.

During the past three years, I have been heavily involved in negotiating longstanding disputes involving water and fishery issues and have a major contribution to settling the Great Lakes fishery dispute, achieving a U.S.-Canada Pacific Salmon treaty, and settling Indian water rights disputes in Arizona and Montana. These efforts have enabled me to improve my negotiating and mediation skills. Such skills will be important to achieving solutions that conserve our nation's fish and wildlife and other natural resources.

Lastly, my primary role as Deputy Under Secretary has been to oversee and coordinate the Department's programs in Alaska with special emphasis on implementation of the 1980 Alaska Lands Act. As a result of that Act, approximately two-thirds of the National Park System and three-fourths of the Wildlife Refuge system are in Alaska. My responsibilities have provided daily insights and knowledge about the issues facing our Park and Refuge systems. This background will be extremely useful in overseeing, on behalf of the Secretary, the activities of the National Park Service and the Fish and Wildlife Service.

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

February 1976 - January 1977, Department of the Interior, Change of Administration. June 1975 - December 1975, Department of Commerce, Secretary Resigned.

Financial Statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

All investments presently owned by me and/or my wife are listed in attached SF 278. None of such investments nor any obligation are believed to involve potential conflicts of interest. In view of my commitments set forth in attached Exhibit 3, no relationships are believed to involve potential conflicts of interests.

3. Are any assets pledged? (Add schedule).

No.

4. Are you currently a party to any legal action? Named as defendant in my official capacity as Deputy Under Secretary in Audobon Society, et al. v. Watt; the suite concerned a land exchange involving a wildlife Refuge and three native corporations in Alaska.

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes.

4a. (Cont.) I was also deposed in my official capacity in April 1985 on an aspect of U.S. v. Michigan, a case concerning Indian Fishing rights.

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No

Potential conflicts of interest:

1. Describe any financial or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

No

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

No

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

No

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

It is unlikely that any would arise but the avoidance of such conflicts or the appearance of conflicts is extremely important. I would take actions to ensure that my conduct in office is above reproach.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

See attached letter to Mr. David Martin, Director, Office of Government Ethics.

Political affiliation and activities: List all memberships and offices held in, or financial contributions (in excess of $1,000), and services rendered to any political party or election committee during the last 10 years.

None.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

N/A

Additional Matters

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

No.

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes.

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

No.

AFFIDAVIT

William P. Horn, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

William P. Horn

Subscribed and sworn before me this 27th day of October, 1985

Notary Public

My Commission Expires April 30, 1988

NATIONAL WILDLIFE FEDERATION
1412 Sixteenth Street, N.W., Washington, D.C. 20036-2266 (202) 797-6800

TESTIMONY OF
THE NATIONAL WILDLIFE FEDERATION
ON THE CONFIRMATION OF

WILLIAM P. HORN

BEFORE THE
SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE

JULY 24, 1985

Lynn A. Greenwalt
Vice President
Resources Conservation
Department

Mr. Chairman and members of the Committee, I am Lynn A. Greenwalt, Vice President for Resources Conservation of the National Wildlife Federation (NWF). The NWF is the nation's largest conservation-education organization with over 4.5 million members and supporters and 52 affiliated state- and territory-wide organizations. I appreciate the opportunity to appear before you and provide our views on the nomination of Mr. William P. Horn for the position of Assistant Secretary for Fish, Wildlife and Parks in the Department of the Interior.

The NWF firmly believes that conservation of the nation's fish and wildlife resources is integral to a strong America -- now and in the future. Only by using fish and wildlife wisely and preserving their natural habitats can we expect to ensure all our endemic species of flora and fauna against extinction, preserve our native ecosystems, and maintain our tradition of fishing, hunting, and trapping. In short, healthy natural systems reflect a thriving nation and contribute to the quality of life enjoyed by its citizens.

Much of the federal responsibility for ensuring proper stewardship of fish and wildlife and their habitats rests with the office of the Assistant Secretary. For example, the Assistant Secretary is responsible for managing 74 million acres of National Park Service lands and 90 million acres of National Wildlife Refuge lands. On lands administered by other federal agencies and on non-federal lands, the Assistant Secretary has a role in ensuring all federal actions do not adversely impact fish and wildlife resources. The Assistant Secretary also is responsible for maintaining our leadership worldwide in the scientific management of fish, wildlife, and parks. In short, the Assistant Secretary has both responsibility and opportunity to ensure continuation and enhancement of our nation's fish and wildlife heritage. Each is a formidable challenge.

Mr. Horn's experience in the management and conservation of fish and wildlife resources and administration of related programs is not extensive. Yet his background, which I will mention shortly, provides us with hope that he will approach the job with a solid appreciation for fish and wildlife and his responsibilities for them. In addition, Mr. Horn has expressed a strong desire to learn about the resources he will administer and he has promised to maintain an "open door" to

users and others concerned with the Department of the Interior's activities in fisheries, wildlife, and national parks. We intend to hold Mr. Horn to his promises and will bring our concerns to his attention. We trust we can resolve together differences that have arisen in the past, and reach accord before conflict occurs in the future.

Although we do not now give Mr. Horn our endorsement for the position of Assistant Secretary, we do recognize his appointment holds promise and we are hopeful that in the coming months his actions will allow us to express our unqualified approval of his performance. Mr. Horn's experience has not yet made him a strong and battle-scarred resource conservation advocate, yet his recent history does give us reason to be optimistic. For example, even before Mr. Horn completed his undergraduate education, he worked part time as a lobbyist in Washington for Trout Unlimited -- an organization with conservation goals unquestionably compatible with those of NWF. Mr. Horn continues to advocate Trout Unlimited's policies as a volunteer, working with local chapters of the organization. More recently Mr. Horn has sought solutions to major fishery allocation problems in the Pacific Northwest and Great Lakes states. In the Northwest, after a decade of unsuccessful negotiations between the U.S. and Canada over interception of salmon originating in the two countries, Mr. Horn helped forge a vital treaty which was ratified by Congress earlier this year. Mr. Horn was key to another recent settlement of fishery allocation in the Michigan waters of the Great Lakes between the State of Michigan and treaty Indian tribes. In addition to his work on Indian fishery issues in the Great Lakes, he has served since 1982 as one of four U.S. commissioners on the Great Lakes Fishery Commission and was elected to chair the Commission by his fellow Commissioners in 1984.

Mr. Horn's reputation as a negotiator is well known. We hope this talent will be brought to bear in a manner that protects and leads to enhancement of our nation's fish and wildlife resources. However, it often is difficult to reach consensus when complex issues abound. We urge that the search for consensus does not become a watch word for delay or preemption of the

more important role of the Assistant Secretary, which is to make hard decisions to protect fish and wildlife resources and National Parks, and to take strong regulatory actions when warranted. Such decisions often must be made quickly. The Assistant Secretary always must act as an advocate for the resources under the jurisdiction of the office. Thus we urge the Assistant Secretary in all cases to protect the resource first and seek consensus second.

The office of the Assistant Secretary has been of particular concern to NWF in recent years. We have witnessed a number of disturbing trends in the U.S. Fish and Wildlife Service (FWS) and National Park Service. These include cutbacks in the roles and responsibilities of the FWS fishery program, reluctance to pursue enhancement of authorities and programs in areas identified as responsibilities of the FWS fishery program, refusal to request funds from the Wetlands Loan account to purchase wetlands, inadequate use of Land and Water Conservation Fund monies to purchase habitat for endangered species and authorized National Wildlife Refuge and National Park lands, and blocking of federal actions to reduce deaths of waterfowl, eagles, and other wildlife due to lead poisoning.

The Assistant Secretary should be a leader role in ensuring equal consideration for fish and wildlife resources in decisions on water-related projects, increasing land acquisition to benefit fish and wildlife, preventing lead poisoning in waterfowl and eagles, and shoring up federal programs of value to fish and wildlife resources and users, to name but a few opportunities. The potential of the Assistant Secretary to be a strong advocate for conservation of fish and wildlife resources seems limitless. We hope that Mr. Horn will seize this opportunity and be a strong advocate for the programs he will administer and the resources placed in his stewardship. In this regard we have several concerns on which we urge the incoming Assistant Secretary to focus in the coming months:

Protection of our nation's wetlands must be enhanced. It is critical that the authority of the FWS be restored to ensure that filling of wetlands for development does not adversely affect fish

and wildlife resources. The Assistant Secretary must continue to insist on amending the Department of the Interior's Memorandum of Agreement (MOA) with the Army Corps of Engineers (Army) under Section 404 of the Clean Water Act to require the Army to honor the Department of the Interior's requests for additional review of a project's impacts on natural resources. In 1982, Army and the Department of the Interior signed a MOA that restricted greatly the Interior Department's ability to protect wetlands habitat for fish and wildlife. Within two years, problems with the MOA led former Assistant Secretary G. Ray Arnett to conclude that "Army's regulatory program is so flawed, it is no longer a usable tool to adequately protect wetlands." In testimony before the Senate's Environmental Pollution Subcommittee on May 21, 1985, Mr. Arnett stated that the present MOA has "prevented adequate protection of the environment." The new Assistant Secretary must not waver from the Department's present position that: 1) The Army must be required to conduct further review of Section 404 permits at the request of the Assistant Secretary for Fish, Wildlife and Parks; and 2) requests for additional permit review (elevation) should be allowed on the basis of concern for the fish and wildlife resources affected.

Federal stewardship of our nation's fishery resources must not be compromised. Emphasis must be on maintaining the natural productivity of fish and their habitat. Although responsibility for fisheries also rests with several federal agencies and the states, and cooperation between these entities is integral to current management practices, an aggressive leadership role by the FWS is essential to protection of the nation's shared fishery resources. The FWS must take the initiative to protect and enhance depleted fisheries of broad national economic significance, and those fisheries that may be imperiled yet have little or no economic value. Existing fishery resources must be preserved wherever possible, not replaced artificially. The FWS must take the federal lead to ensure that fisheries on all lands are protected adequately, and enhanced where needed, when activities are conducted by the federal land management and regulatory agencies. The FWS must serve as the federal advocate for state fishery managers left to oversee use of

fisheries on federal lands to ensure that the federal land managers protect the quality and quantity of fishery resources on federal lands.

The FWS must be encouraged to implement an aggressive program to eliminate lead poisoning which results from use of lead shot in hunting and causes the needless destruction of waterfowl, eagles, and other wildlife. According to the FWS, at least 1.6 to 2.4 million waterfowl die annually from lead poisoning. Even endangered species have been affected; FWS figures indicate that at least 100 bald eagles have died from lead poisoing since 1966; 50 of these birds died in the last four years. The steps FWS can take to solve the problem are simple: 1) rescind the Fish and Wildlife Service January 27, 1983 policy on use of nontoxic shot on National Wildlife Refuges ("Policy Regarding Use of Non-toxic Shot on NWRs") and adopt Option II (elimination of toxic shot for waterfowl hunting on all refuges) contained in the Division of Refuge Management's October 31, 1980 Issue Document; 2) adopt a policy that establishes the objective of an eventual phase-out of lead shot for all migratory waterfowl hunting and work with the Congress to introduce legislation instituting the policy; and 3) urge the Congress to eliminate the "Stevens amendment" or "steel shot rider" from the FY 1986 Interior Appropriations Budget and from all future budgets.

Major increases in land acquisition funding are needed to reduce the backlog of authorized land acquisitions and to increase the amount of critical fish and wildlife habitat protected. At least $400 million annually should be requested for the Land and Water Conservation Fund for purchase of endangered species habitat and National Wildlife Refuge and National Park Service lands.

The Department should increase its efforts to purchase wetlands by requesting appropriation in FY '87 of all funds remaining in the Wetlands Loan Account and by reversing its opposition to the Emergency Wetlands Resources legislation currently pending. Past limitations on the Department of the Interior's land acquisition program have had serious consequences. The backlog of lands to be purchased has grown, due to insufficient funds and too few workers to

process acquisitions. In the interim, land prices have escalated generally and some prime wildlife lands have been lost to development. This situation also has placed an undue burden on willing sellers, who are unable to sell to the federal government yet unable to find private purchasers due to the announced intention of the government to purchase the land. Paradoxically, agricultural land values have fallen, and willing sellers of lands adaptable to wildlife production cannot find a market because the government will not or cannot buy land.

Action by the FWS to protect species of fish, wildlife, and plants in peril should be enhanced. As a particular example, the Assistant Secretary must continue to provide full protection to threatened and endangered species dependent upon western rivers by continuing to require that the Bureau of Reclamation and other western water developers provide instream flows of proper timing, magnitude, and temperature needed to meet the requirements of the Endangered Species Act.

The primary FWS mission on National Wildlife Refuges to manage fish and wildlife and their habitats must be restored. Former Secretary James Watt's directive to expand a broad range of economic uses on refuges must be repealed. Even FWS analysis shows little demand to increase economic uses on refuges and predicts increased costs to the government. In addition, decisions governing economic uses on refuges too often are being made on political grounds rather than on the basis of the expert judgment of fish and wildlife professionals. The Assistant Secretary must ensure that each refuge is managed for the purposes for which it was created. He must assure that no uses incompatible with those purposes are allowed.

The scientific research capabilities in the FWS and National Park Service must be maintained and enhanced. Maintaining the research capabilities of these agencies is critical to the proper functioning of the Department of Interior. In recent years, support for research has been less than necessary and counterproductive in some situations. Many of the best research scientists in FWS have little or no operating money and they have not been allowed to participate in scientific

meetings or travel crucial to their function. Additional funds must be allocated for research. Scientists employed in these agencies must be given the latitude to perform their jobs free of any political influences.

In conclusion, Mr. Chairman, the NWF seeks to play a role in the Committee's deliberations that is as constructive as possible. Unfortunately, Mr. Horn's lack of an extensive track record on resource conservation does not allow us to offer an unqualified statement of support, yet we see much in his background that makes us believe that he can become an important advocate within the Department of the Interior for the resources and programs under his jurisdiction. We urge Mr. Horn immediately to set sound resource conservation as his agenda. The NWF will be a careful observer of Mr. Horn's activities and an active participant also. We are committed to working closely with the new Assistant Secretary, in a positive and constructive manner.

Defenders
OF WILDLIFE

TESTIMONY OF WILLIAM PAINTER
WASHINGTON PROGRAMS DIRECTOR, DEFENDERS OF WILDLIFE
BEFORE THE
COMMITTEE ON ENVIRONMENTAL AND PUBLIC WORKS
UNITED STATES SENATE
ON THE CONFIRMATION OF WILLIAM HORN AS ASSISTANT SECRETARY OF
THE INTERIOR FOR FISH, WILDLIFE, AND PARKS
JULY 22, 1985

MR. CHAIRMAN, I AM WILLIAM PAINTER, WASHINGTON PROGRAM DIRECTOR OF DEFENDERS OF WILDLIFE. THE GOAL OF DEFENDERS SIXTY-FIVE THOUSAND MEMBERS IS TO PRESERVE, ENHANCE, AND PROTECT THE NATURAL ABUNDANCE AND DIVERSITY OF WILDLIFE AND ITS HABITAT. THE FOCUS OF OUR PROGRAMS IS ON PROTECTION OF ENDANGERED WILDLIFE, MANAGEMENT OF PUBLIC LANDS FOR THE BENEFIT OF ALL NATIVE WILDLIFE, AND PROMOTION OF FEDERAL AND STATE WILDLIFE POLICIES AND PROGRAMS THAT FOSTER HEALTHY, NATURAL COMMUNITIES OF WILDLIFE.

THE ASSISTANT SECRETARY OF THE INTERIOR FOR FISH, WILDLIFE AND PARKS HAS KEY RESPONSIBILITY FOR A NUMBER OF PROGRAMS OF GREAT IMPORTANCE TO OUR NATION'S WILDLIFE. AS THIS COMMITTEE AND THE SENATE CONSIDER THE NOMINATION OF WILLIAM HORN FOR THAT OFFICE THERE ARE CERTAIN BASIC PRINCIPLES AND KEY POLICIES THAT NEED TO BE KEPT IN MIND. AS MR HORN HAS SERVED IN A HIGH

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POSITION AT THE DEPARTMENT OF INTERIOR HE SHOULD BE ABLE TO TELL THIS COMMITTEE AND THE AMERICAN PEOPLE WHAT POLICIES HE EXPECTS TO PURSUE IF HE BECOMES ASSISTANT SECRETARY OF INTERIOR.

BEFORE ADDRESSING SPECIFIC POLICIES, WE WISH TO ELUCIDATE A FEW BASIC PRINCIPLES AND PRIORITIES THAT WE BELIEVE ANY KEY DEPARTMENT OF THE INTERIOR OFFICIAL SHOULD APPLY. THESE INCLUDE:

1. ENDANGERED WILDLIFE-- THE CONGRESS HAS PROVIDED SPECIAL TOOLS FOR THE DEPARTMENT OF THE INTERIOR TO ENSURE THE PROTECTION AND RECOVERY OF ENDANGERED AND THREATENED WILDLIFE. THE ASSISTANT SECRETARY FOR FISH, WILDLIFE AND PARKS SUPERVISES IMPLEMENTION THE ENDANGERED SPECIES ACT. HE SETS THE STANDARD FOR FEDERAL AGENCIES WITH REGARD TO CONSERVING AND PROTECTING ENDANGERED SPECIES. THIS IS A JOB OF THE HIGHEST PRIORITY FOR THE ASSISTANT SECRETARY. HE ALSO HAS AN OBLIGATION TO PREVENT MORE SPECIES FROM BECOMING SO DEPLETED THAT THEY BECOME THREATENED OR ENDANGERED.

2. WILDLIFE ON PUBLIC LAND-- PUBLIC LANDS AND THE WILDLIFE ON THEM ARE PUBLIC TRUSTS HELD FOR THE NATION. AS A TRUSTEE, THE ASSISTANT SECRETARY'S DUTY TO CURRENT AND FUTURE GENERATIONS IS TO ENSURE THAT THE LANDS UNDER HIS JURISDICTION ARE MANAGED ACCORDING TO THE TERMS OF THE TRUST-- GENERALLY MANAGED IN SUCH A WAY AS TO ENSURE THAT THE VALUE OF THE TRUST IS NOT DEPLETED, AND THAT THE PRINCIPAL OF THE TRUST REMAINS SELF-SUSTAINING. THE SECRETARY MUST GUARD THE ASSETS OF THE NATURAL ECOYSTEM INCLUDING ANIMALS, PLANTS, WATER, AND SOIL.

USES OF PUBLIC LANDS, SUCH AS LIVESTOCK GRAZING, TIMBER HARVESTING AND MINERAL EXPLOITATION WHICH CONSUME PUBLIC ASSESTS MUST BE SEEN GENERALLY AS PRIVILEDGES, NOT RIGHTS. SUCH USES CAN DEPLETE OR PERMANENTLY DESTROY WILDLIFE POPULATIONS AND EVEN ENTIRE ECOSYSTEMS. EVEN IN THOSE LIMITED CIRCUMSTANCES WHEN SOMEONE HOLDS A RIGHT TO CONSUMPTIVE USE OF PUBLIC LAND, THE EXERCISE OF THOSE RIGHTS MUST BE LIMITED BY THE NEED TO PRESERVE THE HEALTH OF THE RESOURCE.

ON DOMINANT USE LANDS, SUCH AS NATIONAL WILDLIFE REFUGES AND NATIONAL PARKS, OTHER USES MUST ALWAYS BE LIMITED TO THOSE WHICH WILL NOT INTERFERE WITH THE NATURAL RESOURCE VALUES, INCLUDING NATURAL FLORA AND FAUNA, WHICH THE AREA WAS ESTABLISHED TO PROTECT. MANAGEMENT OF THESE AREAS SHOULD BE BASED ON PROTECTING AND/OR RESTORING NATURAL ECOYSTEMS, RATHER THAN ARTIFICIAL MANIPULATION OF THE ENVIRONMENT.

3. WILDLIFE MANAGEMENT-- FEDERAL PROGRAMS FOR MANAGEMENT OF WILDLIFE POPULATIONS SHOULD BE BASED ON SOUND SCIENTIFIC PRINCIPLES OF ECOSYSTEM MANAGEMENT. IT SHOULD BE RECOGNIZED THAT PROTECTING AND RESTORING THE NATURAL ABUNDANCE AND DIVERSITY OF WILDLIFE CAN OFTEN BEST BE ACHIEVED BY A POLICY OF NON-INTERVENTION.

IN ADDITION TO MR. HORN'S SOLEMN ASSURANCE THAT HE WILL ABIDE BY THESE PRINCIPLES OF LAW AND REASONABLE MANAGEMENT, THE

COMMITTEE SHOULD OBTAIN SOME SPECIFIC POLICY COMMITMENTS FROM MR. HORN CONCERNING HIS ADMINISTRATION OF THE AGENCIES UNDER HIS CONTROL.

ENDANGERED WILDLIFE

IN REGARD TO ENDANGERED SPECIES, THE ACT ITSELF WILL BE REVIEWED BY THIS CONGRESS, BUT A NUMBER OF MANAGEMENT IMPROVEMENTS SHOULD BE ADOPTED WITHIN THE DEPARTMENT.

(1) NEARLY 4000 SPECIES HAVE BEEN IDENTIFIED AS WORTHY OF CONSIDERATION FOR PROTECTION UNDER THE ENDANGERED SPECIES ACT. THE DEPARTMENT SHOULD COMMIT ITSELF TO REVIEWING THIS BACKLOG WITHIN 10 YEARS,AND LISTING SPECIES WHEN APPROPRIATE. FOCUSING PERSONNEL EFFORTS ON LISTING; LISTING AS A GROUP THOSE SPECIES WHICH OCCUR IN THE SAME GEOGRAPHIC AREA; AND HIRING ADDITIONAL PLANT AND INVERTEBRATE SPECIALISTS IN PARTICULAR WOULD EXPEDITE LISTING AND HELP PREVENT AN INCREASE IN THE EXTINCTION OF NATIVE ANIMALS AND PLANTS. HE SHOULD INCREASE THE RATE OF LISTING TO 260 A YEAR WITHIN THE NEXT 2 YEARS.

(2) TO FACILITATE BETTER COOPERATION BETWEEN PRIVATE DEVELOPERS, FEDERAL AGENCIES AND THE CONSERVATION COMMUNITY, THE ASSISTANT SECRETARY SHOULD PROVIDE MORE INFORMATION ON THE CONSERVATION NEEDS OF LISTED SPECIES AND THOSE ACTIVITIES LIKELY TO HARM LISTED SPECIES.

(3) THE ASSISTANT SECRETARY SHOULD REVIEW IMPLEMENTATION OF SECTION 7, THE PROVISION FOR INTERAGENCY CONSULTATION, TO ENSURE THAT INTERIOR'S RECOMMENDATIONS TO OTHER AGENCIES ARE HEEDED AND

THAT RECOVERY, NOT FURTHER DETERIORATION, OF SPECIES IS ATTAINED. HE SHOULD ESTABLISH A PROGRAM TO MONITOR CANDIDATE SPECIES WOULD BE SUCH AS REQUIRED BY H.R. 1027, CONFER WITH ACTION AGENCIES ABOUT THEM AND LIST THEM MORE EXPEDITIOUSLY TO PREVENT REPEATED EXTINCTIONS AMONG CANDIDATES SUCH AS WE HAVE SEEN IN THE LAST 3 YEARS.

(4) RECOVERY PLANS SHOULD BE FUNDED AND IMPLEMENTED. THEY ARE NOW ALL TOO OFTEN ONLY PAPER RECOMMENDATIONS ON A SHELF. RECOVERY MAY BE EXPENSIVE, BUT DELAY RESULTS IN INCREASED COST AND COMPROMISED EFFECT. MINIMAL RECOVERY IMPLEMENTATION FOR ALL PLANS SHOULD BE INITIATED WITHIN TWO YEARS (1987). THIS SHOULD INCLUDE MONITORING OF POPULATIONS AND TAKING ACTIONS NECESSARY TO REVERSE POPULATION DECLINE.

(5) ENFORCEMENT OF THE ACT SHOULD BE ENHANCED TO REDRESS ILLEGAL TAKING OF PEREGRINE FALCONS, CACTI AND OTHER PLANTS, MINNESOTA WOLVES, GRIZZLIES, AND OTHER ENDANGERED AND THREATENED WILDLIFE. IN PARTICULARE HE SHOULD IMPLEMENT IN FY 86 THE IMPROVEMENTS IN PLANT PROTECTION OUTLINED IN THE COMMITTEE REPORT ON H.R. 1027, THE E.S.A. REAUTHORIZATION BILL.

I MUST EXPRESS GREAT CONCERN ABOUT THE INTERIOR DEPARTMENT BUDGET PRESENTED TO CONGRESS. THE ADMINISTRATION HAS RECOMMENDED THAT NO FUNDS BE APPROPRIATED FROM THE LAND AND WATER CONSERVATION FUND FOR THE ACQUISITION OF LANDS FOR NATIONAL WILDLIFE REFUGES FOR ENDANGERED SPECIES. DISRUPTION OF THE ON-GOING PROGRAM TO ACQUIRE ESSENTIAL HABITAT WOULD INCREASE THE THREAT TO WILDLIFE AND THE COST TO TAXPAYERS. KEY SPECIES SUCH

AS THE THE HIGHLY ENDANGERED FLORIDA PANTHER COULD BE AFFECTED BY A HALT OR SLOWDOWN IN LAND ACQUISITION PROGRAMS. SKIMPING ON ENDANGERED SPECIES IS PENNY-WISE AND POUND-FOOLISH AND MERELY CONTRIBUTES TO A DEFICIT IN A GENETIC DIVERSITY WHICH IS OUR ONLY BIOLOGICAL CAPITAL.

WILDLIFE ON PUBLIC LANDS

DURING THE LAST FOUR YEARS THREATS TO THE NATIONAL WILDLIFE REFUGE SYSTEM HAVE INCREASED GREATLY AS THE RESULT OF PROGRAMS AND POLICIES INITIATED BY FORMER SECRETARY JAMES WATT. INSTEAD OF DEDICATING PERSONNEL AND FUNDING TO THE CONSERVATION OF WILDLIFE ON REFUGES, INTERIOR'S POLICIES HAVE SERIOUSLY THREATENED THE REFUGE SYSTEM BY: (1) OPENING THE WILDLIFE REFUGES TO POTENTIALLY DAMAGING COMMERCIAL DEVELOPMENT AND (2) SEEKING TO VIRTUALLY ELIMINATE FUNDING FOR REFUGE ACQUISITION.

SECRETARY WATT ISSUED DIRECTIVES TO OPEN MILLIONS OF ACRES OF "ACQUIRED" REFUGE LANDS TO OIL AND GAS DEVELOPMENT AND TO EXPAND OTHER ECONOMIC AND/OR CONSUMPTIVE USES OF REFUGES INCLUDING GRAZING, HAYING, FARMING, TIMBER HARVESTING, HUNTING AND TRAPPING. ALTHOUGH IMPLEMENTATION OF THESE DIRECTIVES HAS FOR THE MOST PART BEEN HALTED, THE DIRECTIVES REMAIN IN EFFECT.

DEFENDERS OF WILDLIFE BELIEVES THAT IN ORDER TO RESTORE THE THE NEEDED PROTECTION TO OUR NATION'S WILDLIFE REFUGES THE DEPARTMENT SHOULD:

(1) WITHDRAW THE JULY, 1982 INSTRUCTIONS TO INCREASE COMMERCIAL DEVELOPMENT ON REFUGE LANDS;

(2) GIVE HIGH PRIORITY TO OBTAINING THE FUNDING AND

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PERSONNEL NEEDED TO ELIMINATE THE OVER 7,000 THREATS TO REFUGES IDENTIFIED IN THE 1982 SURVEY OF REFUGE FIELD STATIONS AND MAINTAIN THIS COMMITMENT UNTIL THE THREATS ARE ELIMINATED;

(3) IMPLEMENT A PROGRAM TO UNDERTAKE A STUDY OF THE IMPACTS ON REFUGES FROM EXISTING COMMERCIAL USES, AND PROPOSE SUBSTANTIVE PROGRAMS FOR MITIGATING THE ADVERSE IMPACTS, WHICH COULD INCLUDE REDUCTIONS IN SUCH USES;

(4) PROHIBIT OIL AND GAS LEASING ON REFUGE LANDS IN THE LOWER 48 STATES, EXCEPT WHERE THERE ARE VALID EXISTING RIGHTS OR WHERE OIL BENEATH A REFUGE IS BEING SUBJECTED TO DRAINAGE;

(5) REDIRECT THE EXCESSIVE FUNDING FOR RESOURCE DEVELOPMENT PROGRAMS ON REFUGES TOWARD WILDLIFE CONSERVATION;

(6) UNDERTAKE AN IMMEDIATE AND EXTENSIVE EXAMINATION OF LONG-RANGE REFUGE ACQUISITION NEEDS; AND

(7) IMMEDIATELY SUPPORT AN AGGRESSIVE LAND ACQUISITION PROGRAM BY REQUESTING - AND THEN SPENDING - ADDITIONAL LAND AND WATER CONSERVATION FUND APPROPRIATIONS.

DEFENDERS IS ALSO PARTICULARLY CONCERNED WITH THE IMPLEMENTATION OF THE ALASKA NATIONAL INTERESTS LANDS CONSERVATION ACT (ANILCA), ESPECIALLY AS IT AFFECTS ALASKA'S GREAT WILDLIFE RESOURCES. DURING THE PAST FOUR YEARS, THE DEPARTMENT OF INTERIOR UNDER THE GUIDANCE OF WILLIAM HORN HAS ATTEMPTED TO UNDERMINE THE CONSERVATION MANDATE OF THIS ACT, IN ORDER TO FURTHER COMMERCIAL DEVELOPMENT, SOMETIMES IN VIOLATION OF THE LAW. SEVERAL OF THE ADMINISTRATIVE ACTIONS TAKEN BY THE DEPARTMENT OF THE INTERIOR UNDER THE GUIDANCE OF THE NOMINEE WERE

SUBSEQUENTLY DETERMINED TO BE ILLEGAL BY THE COURTS, INCLUDING INTERIOR'S ATTEMPT TO TRANSFER RESPONSIBILITY FOR THE CONGRESSIONALLY MANDATED STUDY OF THE NATURAL RESOURCES OF THE ARCTIC NATIONALWILDLIFE REFUGE COASTAL PLAIN FROM THE FISH AND WILDLIFE SERVICE TO THE UNITED STATES GEOLOGICAL SURVEY IN 1981 AND THE MORE RECENT ATTEMPT TO ADMINISTRATIVELY EXCHANGE ST. MATTHEW ISLAND OUT OF NATIONAL WILDLIFE REFUGE WILDERNESS STATUS IN ORDER TO PROVIDE A STAGING AREA FOR OIL AND GAS DEVELOPMENT IN THE OUTER CONTINENTAL SHELF.

THE NOMINEE WAS ALSO INSTRUMENTAL IN THE DEVELOPMENT OF INTERIM RULES FOR MANAGING THE NATIONAL WILDLIFE REFUGES AND NATIONAL PARKS IN ALASKA. THESE RULES, ISSUED ON JUNE 17, 1981, WILL BE IN FORCE UNTIL FINAL REGULATIONS ARE PROMULGATED. THESE RULES ARE MORE PERMISSIVE TO DEVELOPMENT THAN THE EQUIVALENT MANAGEMENT REGULATIONS FOR REFUGES AND PARKS IN THE REST OF THE COUNTRY, AND PROVIDE LESS PROTECTION THAN MANAGEMENT POLICIES IN EFFECT FOR PARKS AND REFUGES IN ALASKA BEFORE THE PASSAGE OF ANILCA.

WE ARE ALSO CONCERNED ABOUT DRAFT REGULATIONS GOVERNING TRANSPORTATION AND UTILITY CORRIDORS IN CONSERVATION SYSTEM UNITS IN ALASKA ISSUED DURING THE NOMINEE'S TENURE AS DEPUTY UNDER SECRETARY FOR ALASKA. ISSUED ON JULY 15, 1985, PROPOSED REGULATIONS REVERSE THE POLICY APPLIED TO FEDERAL CONSERVATION SYSTEMS IN THE REST OF THE UNITED STATES BY PLACING THE BURDEN OF PROOF ON THE MANAGEMENT AGENCY, RATHER THAN THOSE SEEKING A RIGHT-OF-WAY. THE PROPOSED RULES ALSO BROADEN THE DEFINITION OF "INHOLDING" AND LIMIT THE AGENCY'S AUTHORITY TO MODIFY AN

APPLICANT'S ACCESS PROPOSAL. FINAL RULES HAVE YET TO BE PUBLISHED.

DURING THE FOUR YEARS THAT MR. HORN SERVED AS DEPUTY UNDER SECRETARY FOR ALASKA, THE DEPARTMENT OF INTERIOR SOUGHT TOO LITTLE FUNDING FOR ESSENTIAL CONSERVATION PROGRAMS, APPLIED QUESTIONABLE INTERPRETATIONS OF GOVERNING STATUTES, AND FAILED TO ADEQUATELY ENFORCE THE LAW.

THE DEPARTMENT OF INTERIOR MUST ENDORSE THE INTENT AND SPIRIT OF THE ALASKA LANDS ACT AND REVISE CURRENT INTERIOR POLICIES FOR ALASKA THROUGH:

(1) RETURNING RESPONSIBILITY FOR MANAGEMENT OF FISH AND WILDLIFE ON NATIONAL WILDLIFE REFUGES AND NATIONAL PARKS TO THE U.S. FISH AND WILDLIFE SERVICE AND THE NATIONAL PARK SERVICE, RESPECTIVELY, BY RECINDING THE MEMORANDUM OF UNDERSTANDING BETWEEN THOSE FEDERAL AGENCIES AND THE STATE OF ALASKA;

(2) COMMITTING TO PURSUE NO FURTHER LAND EXCHANGES AND/OR BOUNDARY ADJUSTMENTS RESULTING IN THE LOSS OF CONSERVATION SYSTEM ACREAGE WITHOUT EXPRESS CONGRESSIONAL APPROVAL;

(3) SEEKING BUDGETARY INCREASES TO CONSERVATION PROGRAMS MANDATED BY ANILCA AND DECREASES IN FUNDING FOR RESOURCE DEVELOPMENT PROGRAMS. THE INCREASES IN FUNDING SHOULD BE USED FOR STAFFING, PLANNING STUDIES, MANAGEMENT AND ENFORCEMENT ACTIVITIES SO THAT, FOR EXAMPLE, FUNDING BEGINS TO REFLECT THE 358 PERCENT INCREASE IN REFUGE LANDS RESULTING FROM THE PASSAGE OF ANILCA.

(4) NOT PROCEEDING WITH COMMODITY DEVELOPMENT OF KEY FEDERAL LANDS IN ALASKA UNTIL (a) THE COMPLETION OF COMPREHENSIVE CONSERVATION PLANS FOR REFUGES; (b) SUBMISSION OF RECOMMENDATIONS

TO CONGRESS FOR OFFICIALLY-DESIGNATED WILD AND SCENIC STUDY RIVERS' AMD (c) SUBMISSION TO CONGRESS OF RECOMMENDATIONS FOR ADDITIONS TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM, BASED ON REQUIRED STUDIES.

(5) ENSURING THAT THE ARCTIC NATIONAL WILDLIFE REFUGE COASTAL PLAIN ENVIRONMENTAL STUDIES PROVIDE CONGRESS WITH THE INFORMATION NEEDED TO MAKE THE BEST POSSIBLE DECISIONS ON THE FUTURE OF THIS CRUCIAL AREA, AND ENSURING THAT NO ACTIONS ARE TAKEN BY INTERIOR WHICH WILL UNDERMINE CONGRESS' ABILITY TO EVALUATE THE STUDIES OF OIL AND GAS AND NATURAL RESOURCES OF THAT AREA AND SET A PROPER COURSE OF ACTION; AND

(6) STATING UNEQUIVOCALLY THAT THE DEPARTMENT WILL OPPOSE ANY PROPOSALS TO INITIATE WOLF CONTROL PROGRAMS ON FEDERAL LANDS IN ALASKA.

WILDLIFE MANAGEMENT

DEFENDERS OF WILDLIFE HAS FOR A LONG TIME BEEN CONCERNED ABOUT INTERIOR DEPARTMENT POLICIES GOVERNING MANAGEMENT OF WILDLIFE POPULATIONS. ON MANY OCCASIONS WE HAVE MADE PRESENTATIONS BEFORE INTERIOR OFFICIALS REGARDING WATERFOWL MANAGEMENT, EXPRESSING CONCERN ABOUT POLICIES ON SEASON DATES, SHOOTING HOURS, AND BAG LIMITS ON CERTAIN SPECIES. WE HAVE CONTINUALLY ADDRESSED PRE-DAWN SHOOTING, QUESTIONING THE ABILITY OF THE HUNTER TO IDENTIFY WATERFOWL IN POOR LIGHT CONDITIONS AND STATING OUR FEAR THAT AN ENDANGERED SPECIES, SUCH AS A WHOOPING CRANE, COULD BE KILLED BY ACCIDENT. WE HAVE OBJECTED TO CREATION OF SEASONS AND SETTING OF BAG LIMITS FOR SPECIES SUCH AS COMMON

SNIPE, SORA VIRGINIA RAIL, CLAPPER AND KING RAILS, GALLINULES, COOTS, MERGANSERS, AND SEA DUCKS BASED ON INADEQUATE DATA ABOUT THEIR POPULATIONS.

A NEW ASSISTANT SECRETARY OF INTERIOR SHOULD ORDER A THOROUGH EXAMINATION OF POLICIES DEALING WITH WATERFOWL. DRAMATIC DECREASES IN POPULATIONS OF SEVERAL SPECIES OF WATERFOWL IN RECENT YEARS PROVIDE EVIDENCE FOR THE NEED FOR NEW PROGRAM AND POLICY INITIATIVES.

ANOTHER FACET OF WILDLIFE MANAGEMENT POLICY OF PARTICULAR INTEREST TO OUR ORGANIZATION IS PREDATOR CONTROL. MILLIONS AND MILLIONS OF TAXPAYERS' DOLLARS ARE SPENT ANNUALLY ON KILLING OF COYOTES AND OTHER PREDATORS, IN AN ATTEMPT TO REDUCE LOSES TO THE LIVESTOCK INDUSTRY IN THE WEST. THESE LETHAL PREDATOR CONTROL PROGRAMS REPRESENT A TAXPAYER SUBSIDY TO LIVESTOCK INTERESTS AND AE OF QUESTIONABLE EFFICACY IN TERMS OF CONTROLLING DAMAGE TO LIVESTOCK FROM PREDATION.

A NEWLY-APPOINTED ASSISTANT SECRETARY SHOULD UNDERTAKE A THOROUGH REVIEW OF THE DEPARTMENT'S POLICIES ON PREDATOR CONTROL, WITH AN EYE TOWARD REDUCING EXPENDITURES FOR ONGOING LETHAL PREDATOR CONTROL PROGRAMS. THERE IS A PRESSING NEED FOR ADDITIONAL RESEARCH IN NON-LETHAL PREDATOR CONTROL TECHNIQUES. THE USE OF LIVESTOCK GUARDING DOGS TO PROTECT LIVESTOCK FROM PREDATION IS INCREASING AROUND THE COUNTRY. THE MAJORITY OF GUARD DOG USERS ARE SATISFIED WITH THE DOGS AND DEPEND UPON THEM ON A FULL-TIME BASIS; ADDITIONAL RESEARCH WILL ISOLATE THE PARTICULAR BLOODLINES THAT PRODUCE A SUCCESSFUL GUARD DOG AND FURTHER DETERMINE THE BEST TRAINING METHODS.

RESEARCH HAS SHOWN THAT TASTE AVERSION CAN BE AN EFFECTIVE METHOD OF CONTROLLING COYOTE PREDATION; IT IS THE MAINSTAY OF THE PREDATOR CONTROL PROGRAM IN SASKATCHEWAN, CANADA. ADDITIONAL RESEARCH MUST BE CONDUCTED TO ANSWER QUESTIONS ABOUT THIS METHOD.

FINALLY, THERE IS A NEED FOR THE ESTABLISHMENT OF DEMONSTRATION PROJECTS AND EDUCATIONAL PROGRAMS ON NON-LETHAL PREDATOR CONTROLS.

IN SUMMARY, MR. CHAIRMAN, DEFENDERS OF WILDLIFE BELIEVES THE POSITION OF ASSISTANT SECRETARY OF INTERIOR FOR FISH, WILDLIFE AND PARKS IS CRUCIAL TO THE DEVELOPMENT AND IMPLEMENTATION OF FEDERAL POLICIES THAT PROTECT AND RESTORE THE NATURAL ABUNDANCE AND DIVERSITY OF WILDLIFE AND IMPORTANT WILDLIFE HABITAT. THE NOMINEE'S PERFORMANCE AS DEPUTY UNDER SECRETARY FOR ALASKA GIVES US STRONG REASONS TO DOUBT THAT HE WOULD PURSUE POLICIES THAT WE WOULD LIKE TO SEE AS ASSISTANT SECRETARY. PERHAPS IN HIS TESTIMONY AND IN RESPONSE TO QUESTIONS HE WILL PROVIDE EVIDENCE THAT INDICATES THAT AS ASSISTANT SECRETARY FOR FISH, WILDLIFE, AND PARKS UNDER A DIFFERENT SECRETARY OF INTERIOR, HE WILL PURSUE POLICIES WITH LESS EMPHASIS ON DEVELOPMENT OF NATURAL RESOURCES AND MUCH MORE EMPHASIS ON PROTECTION OF WILDLIFE, WILDERNESS, PARKS, AND OTHER IMPORTANT NATURAL RESOURCES. WE URGE THIS COMMITTEE TO PROBE DEEPLY INTO THE NOMINEE'S PLANS FOR HOW HE WOULD CARRY OUT HIS RESPONSIBILITIES AS ASSISTANT SECRETARY AND

TO CONSIDER THOSE RESPONSES VERY CAREFULLY IN DECIDING HOW TO DEAL WITH THIS NOMINATION.

MR. CHAIRMAN, THIS CONCLUDES THE TESTIMONY OF DEFENDERS OF WILDLIFE. WE APPRECIATE THE OPPORTUNITY TO PRESENT OUR VIEWS ON THIS IMPORTANT MATTER.

STATEMENT OF THEODORE NICKOLAS GIANOUTSOS AND FRANCOISE TREFFEL GIANOUTSOS, FOUNDERS OF THE NATIONAL FISH AND WILDLIFE FOUNDATION, BEFORE THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS AND THE COMMITTEE ON ENERGY AND NATURAL RESOURCES, U.S. SENATE, ON THE NOMINATION OF MR. BILL HORN TO BE INTERIOR ASSISTANT SECRETARY FOR FISH WILDLIFE AND PARKS.

JULY 24, 1985.

On March 26, 1984 President Ronald Reagan signed into law H.R. 2809 establishing the National Fish and Wildlife Foundation (attachment 1). Last month, in an exclusive interview in the oval office with the National Wildlife Federation, President Reagan cited the Foundation as the example of Private Sector Initiative for wildlife conservation that his Administration PIONEERED (attachment 2). But, on March 26th, after signing the Foundation act, President Reagan also delivered himself of a signing statement (attachment 3) which by all accounts (congressional aides, journalists, bureaucrats, longtime lobbyists, conservation leaders, and politicians) is bizarre, highly negative, vindictive, and mean-spirited, particularly when viewed in the context of a non-controversial bill co-sponsored by 60 Senators and Congressmen, including the Leadership of both Houses and both Parties and 22 Chairmen, which was unanimously passed FOUR times (twice in the Senate and twice in the House). When Mr. Bill Horn was asked the meaning of the statement, as its principal author, he said, "It's just some BULLSHIT for the President's signature, so that he can show his disapproval of the Foundation". How do we know what Bill Horn said? We know because an unimpeachable source told us - Mr. Walter Sanders, senior aide to Chairman John Dingell. Why do we believe Mr. Sanders? Because of the extraordinary interest and concern for the Foundation which Chairman Dingell displayed. When H.R. 2809 was in the hearing stages, Mr. Dingell personally and meticulously went over every word of the bill and suggested several improvements to John Breaux - prime sponsor of the bill. Why? Because John Dingell used to chair Mr. Breaux's committee, is an ardent outdoorsman, hunter, and conservationist and maintains a keen interest in wildlife conservation matters. We know that both Chairman Stafford and Chairman McClure know of and share Mr. Dingell's commitment to wildlife conservation. Mr. Dingell further demonstrated his concern for the bill when the time came for co-sponsorship. He called Ted and asked him to come to his office where he told him, face-to-face, how important the legislation was to wildlife conservation and the work of the Fish and Wildlife Service. He told Ted that he would very much like to be a co-sponsor but, he was concerned that if Chairman Rostenkowski saw his name on the bill when it came before him at a Ways and Means hearing, Rostenkowski would kill the bill because Dingell signed a discharge petition against Rostenkowski (a very rare thing for a full committee Chairman to do to the Chairman of the Ways and Means) and Rostenkowski was furious about it. Within 2 days Ted got a meeting with Chairman Rostenkowski and told him how hard Mr. Dingell had worked on the bill and how concerned he was about it. Ted asked Mr. Rostenkowski if he had any objection to Mr. Dingell being a co-sponsor of the legislation. Mr. Rostenkowski, gentleman that he is, assured Ted that even though he was not happy with Mr. Dingell, he would certainly NOT kill the bill because Dingell's name was on it, but rather see that it got an expeditious hearing and would consider the bill on its merits. Dingell's name was added as a co-sponsor and true to his word, Rostenkowski held a hearing a week or two later and favorably reported out the measure. Mr. Dingell closely followed the bill and strongly supported it in the House. When the President's signing statement was released Chairman Dingell was outraged. He ordered his aide Walter Sanders to find out who wrote it and why. Mr. Sanders did and called Ted to tell him what Mr. Horn had done and what Mr. Horn had said.

Why would Mr. Horn do this? After all,didn't President Reagan call for Private Sector Initiatives and hadn't we responded? Apparently to some in this Administration we are the WRONG kind of people. To whom? To the extremists, ideologues, and fanatical partisans. Mr. Horn's action was but one of many vindictive, inane, petty-partisan, mean-spirited, and retaliatory acts taken against us and the Foundation by some of the most senior members of this Administration. Some of the more notable ones include:

- the illegal targeting and riffing of Francoise from OPM in 1982 by Devine and his aides.

- illegally keeping Francoise out of OPM for 21 months, in violation of her re-employment rights, by Devine and his aides, while more than 500 people were hired (5 times the number riffed).

- downgrading Francoise's performance appraisal rating in reprisal for her wanting to share her Private Sector Initiative of founding the Foudation with her boss Donald Devine.

- the illegal firing of Ted at Interior in reprisal for his disclosing millions of dollars of waste, fraud, and mismanagement directly under Principal Deputy Assistant Secretary and Agency ETHICS Official Richard Hite, Watt's closest and most important aide.

- James Watt's ridicule and denigration of our efforts to establish the Foundation, calling us misguided and accusing us of attempting to buy him and his office.

- the request to the FBI (attachment 4), from the office of the Secretary of the Interior, for an investigation on Ted under the authority of EO 10450, the McCarthy,era order (1954) used to find and remove from civil service suspected communist subversives.

- the offering of high level jobs in the Fish and Wildlife Service to Ted by Arnett, Jantzen, and Hite in exchange for his silence on waste, fraud and abuse in the office of the Secretary.

- the removal of Ted from Interior under armed guard by Watt's chief of security and his deputy.

- obstruction and denial of justice by the Special Counsel's office/MSPB by failing to stay Ted's firing and investigate even when informed by none other than the Counsel to the President, Fred Fielding, and subsequently closing and re-opening Ted's and Francoise's cases 5 times (attachment 5 a, b, c).

- repeated attempts to kill the Foundation by Watt, Hite, Bettenburg, Arnett, Potter and Clark.

- failure to properly implement the Foundation law resulting in at least hundreds of thousands and possibly millions of dollars lost to the Fish and Wildlife service (no implementation action taken for 4 months until we met with Prime sponsor John Breaux and he sent letter to Clark - attachment6).

- contempt of Congress by Secretary of the Interior Hodel by his failure to fill 2 vacancies on the Board of Directors of the Foundation which by law must be filled within 60 days.

- using the Foundation to declassify endangered species, specifically the jaguar of North and South America, so that rich hunters may import the hides of these animals as trophies(attachment 7).

Gentlemen, today is the 5th time in 6 months we have come before committees in the Senate and the House to testify on these and other examples of wrongdoing and excesses of some of the most senior members of this Administration. We will continue to do so in the future at appropriate oversight hearings on the Foundation, Interior, OPM and the Office of Special Counsel/MSPB. We have offered to several committee Chairmen to testify under oath. We extend that pledge here today to any Chairman of any committee to testify under oath, at any time, about wrongdoing at Interior, OPM, and Special Counsel/MSPB and especially how the bureaucratic mafias and the fanatical political partisans come together to waste the taxpayers money and abuse the public trust.

The facts are as plain as the nose on your face Mr. Chairman. The Foundation IS the most important example of Private Sector Initiative for wildlife conservation taken during this Administration. The Foundation IS especially appropriate and much needed by the Fish and Wildlife Service during these times of extremely tight budgets and 200 BILLION dollar deficits. The potential of the Foundation is ENORMOUS ! We have conceived of, and suggested to, the Board of Directors of the Foundation, 3 programs, which could easily be implemented, and would yield HUNDREDS of MILLIONS of dollars for the important work of the Fish and Wildlife Service(attachment 8). Unfortunately the Directors have chosen to totally ignore our suggestions. They have even refused to establish our trust fund within the Foundation. Instead of helping the Fish and Wildlife Service, the Foundation has been used by McMillan, Arnett, and Potter to further their own political ambitions. Ironically, Arnett and Potter testified against the Foundation and tried to kill it in every way they could, and then, without shame, came to feed at the trough. Worse is the use of the Foundation to delist endangered jaguars. They have even gone so far as to try and get an additional $20,000 of taxpayer money, authorized as matching funds by Congress for the Foundation. To use taxpayer dollars to allow rich hunters to import jaguar hides as trophies is a corruption of the Foundation's purpose!

The Foundation started as a "generous and patriotic act" on our part (attachment 9a-o). It has been sabotaged and corrupted, and we have been victimized by this Administration for 42 months. For more than 1,260 days we have suffered at the hands of the fanatical partisans. Congress has recognized their excesses. In fact, it was the Senate who forced Watt to resign in disgrace and forced Devine to withdraw his nomination in shame. It is the House which is preparing legislation to abolish the Office of Special Counsel/MSBP in response to his total failure to uphold the law. Can we not be allowed to serve our country FREE from reprisals and harassment? Is there not one or more of you who have the courage to stand up and demand that justice be done? Will you not help the Foundation to achieve its full potential?

Bill Horn has violated the first and most important cannon of the Code of Ethics for Government Service (attachment 10) "PUT LOYALTY TO THE HIGHEST MORAL PRINCIPLES AND TO COUNTRY ABOVE LOYALTY TO PERSONS, PARTY, OR GOVERNMENT DEPARTMENT". He participated in reprisals against us and sabotage of the Foundation in a disgusting demonstration of petty partisanship.

We, on the other hand, have not only reflected the highest standards of the Code of Ethics for Government Service, but have also answered President Reagan's call to eliminate waste, fraud, and mismanagement in the Federal Government. In addition, we have gone beyond our duty as public servants and in answer to President Reagan's call for Private Sector Initiative, as private citizens, we have founded the unprecedented National Fish and Wildlife Foundation.

Senators, you are now presented with a unique opportunity in these hearings. You can vote to confirm Horn and thus make a mockery of President Reagan's priority programs of Private Sector Initiative and the elimination of waste, fraud and mismanagement, and also turn your back on two honest civil servants doing their duty. Or, you can strike a blow for freedom and REJECT Horn and thus serve notice to the Administration that the Senate puts justice for the average citizen FIRST!

THE CHOICE IS YOURS.

16 USC 3706

SEC. 7. AUDITS, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—For purposes of the Act entitled "An Act for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (Public Law 88-504, 36 U.S.C. 1101-1103), the Foundation shall be treated as a private corporation established under Federal law.

(b) REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.—If the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with its purposes set forth in section 2(b); or

(2) refuses, fails, or neglects to discharge its obligations under this Act, or threatens to do so;

the Attorney General of the United States may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate.

16 USC 3707

SEC. 8. UNITED STATES RELEASE FROM LIABILITY.

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

16 USC 3708

SEC. 9. AMENDMENT AND REPEAL.

The Congress expressly reserves the right to repeal or amend this Act at any time.

16 USC 3709

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

For the ten-year period beginning on October 1, 1984, there are authorized to be appropriated to the Department of the Interior not to exceed $1,500,000 to be made available to the Foundation—

(1) to match, on a one for one basis, private contributions made to the Foundation; and

(2) to provide administrative services under section 5.

Approved March 26, 1984.

LEGISLATIVE HISTORY—H.R. 2809

HOUSE REPORTS: No. 98-134, Pt. 1 (Comm. on Merchant Marine and Fisheries) and Pt. 2 (Comm. on Ways and Means).
SENATE REPORT No. 98-272 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 129 (1983): July 12, considered and passed House.
Nov. 2, considered and passed Senate, amended.
Vol. 130 (1984): Feb. 6, House concurred in Senate amendments and in another with an amendment.
Mar. 8, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 13:
Mar. 26, Presidential statement.

Amendment # 1.

Public Law 98-244
98th Congress

An Act

To establish a National Fish and Wildlife Foundation.

Mar. 26, 1984
[H.R. 2809]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Fish and Wildlife Foundation Establishment Act.
16 USC 3701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Fish and Wildlife Foundation Establishment Act".

16 USC 3701

SEC. 2. ESTABLISHMENT AND PURPOSES OF FOUNDATION.

(a) ESTABLISHMENT.—There is established the National Fish and Wildlife Foundation (hereinafter in this Act referred to as the "Foundation"). The Foundation is a charitable and nonprofit corporation and is not an agency or establishment of the United States.

(b) PURPOSES.—The purposes of the Foundation are—

(1) to encourage, accept, and administer private gifts of property for the benefit of, or in connection with, the activities and services of the United States Fish and Wildlife Service; and

(2) to undertake and conduct such other activities as will further the conservation and management of the fish, wildlife, and plant resources of the United States, and its territories and possessions, for present and future generations of Americans.

16 USC 3702

SEC. 3. BOARD OF DIRECTORS OF THE FOUNDATION.

(a) ESTABLISHMENT AND MEMBERSHIP.—The Foundation shall have a governing Board of Directors (hereinafter referred to in this Act as the "Board"), which shall consist of nine Directors, each of whom shall be a United States citizen and—

(1) six of whom must be knowledgeable or experienced in fish and wildlife conservation; and

(2) three of whom must be educated and experienced in the principles of fish and wildlife management.

The membership of the Board, to the extent practicable, shall represent diverse points of view relating to fish and wildlife conservation. The Director of the United States Fish and Wildlife Service shall be an ex officio nonvoting member of the Board. Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(b) APPOINTMENT AND TERMS.—By December 31, 1984, the Secretary of the Interior (hereinafter referred to in this Act as the "Secretary") shall appoint the Directors of the Board. The Directors shall be appointed for terms of six years; except that the Secretary, in making the initial appointments to the Board, shall appoint three Directors to a term of two years, three Directors to a term of four years, and three Directors to a term of six years. A vacancy on the Board shall be filled within sixty days of said vacancy in the manner in which the original appointment was made. No individual may serve more than two consecutive terms as a Director.

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(c) CHAIRMAN.—The Chairman shall be elected by the Board from its members for a two-year term.

(d) QUORUM.—A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(e) MEETINGS.—The Board shall meet at the call of the Chairman at least once a year. If a Director misses three consecutive regularly scheduled meetings, that individual may be removed from the Board and that vacancy filled in accordance with subsection (b).

(f) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(g) GENERAL POWERS.—(1) The Board may complete the organization of the Foundation by—

(A) appointing officers and employees;

(B) adopting a constitution and bylaws consistent with the purposes of the Foundation and the provisions of this Act; and

(C) undertaking of other such acts as may be necessary to carry out the provisions of this Act.

(2) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(A) Officers and employees may not be appointed until the Foundation has sufficient funds to pay them for their service. Officers and employees of the Foundation shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

5 USC 5101 et seq.
5 USC 5331.
5 USC 5332

(B) The first officer or employee appointed by the Board shall be the Secretary of the Board who (i) shall serve, at the direction of the Board, as its chief operating officer, and (ii) shall be knowledgeable and experienced in matters relating to fish and wildlife conservation.

16 USC 3703 SEC. 4. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.

(a) IN GENERAL.—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States;

(3) shall have its principal offices in the District of Columbia; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The serving of notice to, or service of process upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) POWERS.—To carry out its purposes under section 2, the Foundation shall have, in addition to the powers otherwise given it under this Act, the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

(1) to accept, receive, solicit, hold, administer and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain or otherwise dispose of any property or income therefrom;

(4) to borrow money and issue bonds, debentures, or other debt instruments;

(5) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the Directors of the Board shall not be personally liable, except for gross negligence;

(6) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its function; and

(7) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

Gifts and property.

For purposes of this Act, an interest in real property shall be treated as including, among other things, easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historic, scientific, educational, inspirational, or recreational resources. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.

(d) CERTAIN LANDS, WATERS, AND INTERESTS NOT SUBJECT TO CONDEMNATION.—No lands or waters, or interests therein, that are owned by the Foundation and are determined by the Director of the United States Fish and Wildlife Service or the Migratory Bird Conservation Commission, as the case may be, to be valuable for purposes of fish and wildlife conservation or management shall be subject to condemnation by any State or political subdivision, or any agent or instrumentality thereof.

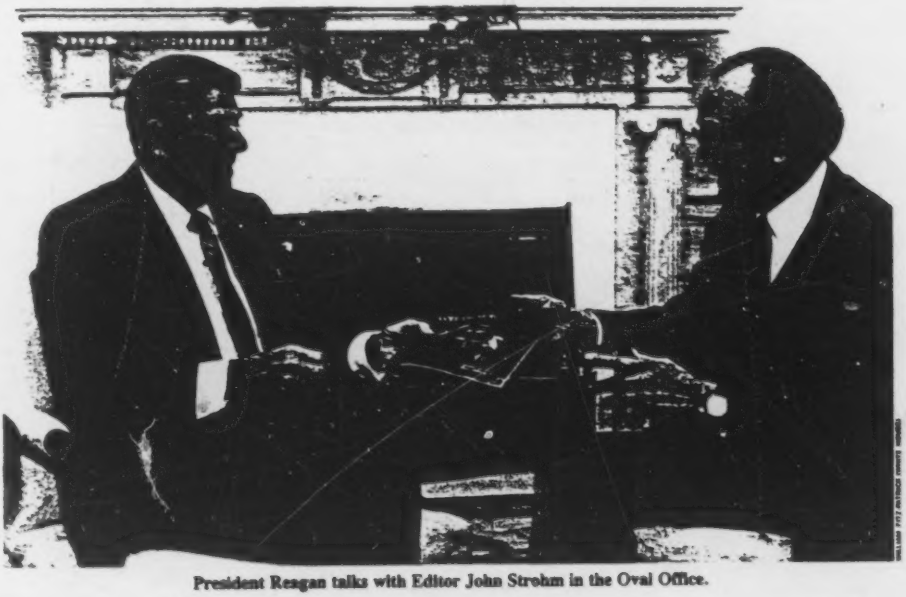
SEC. 5. ADMINISTRATIVE SERVICES AND SUPPORT. 16 USC 3704

The Secretary may provide personnel, facilities, and other administrative services to the Foundation, including reimbursement of expenses under section 3, not to exceed then current Federal Government per diem rates, for a period of up to five years from the date of enactment of this Act, and may accept reimbursement therefor, to be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services.

SEC. 6. VOLUNTEER STATUS. 16 USC 3705

The Secretary may accept, without regard to the civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the Department of the Interior, as volunteers in the performance of the functions authorized herein, in the manner provided for under section 7(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(c)).

Attachment # 2.



President Reagan talks with Editor John Strohm in the Oval Office.

Exclusive Interview

President Reagan Gives His Views on Wide-Ranging Conservation Issues

In an exclusive interview with *National Wildlife* magazine, President Ronald Reagan answered some far ranging questions from Editor John Strohm.

The questions were submitted in advance to the President, who asked his staff to research his answers. After making some changes, he gave final approval. Meanwhile, Strohm met with the President in the Oval Office to discuss some of the questions and to talk about the wildlife on the President's California ranch. Following is a complete report of Strohm's questions, and the President's answers.

Wildlife: *You've often spoken eloquently of the "shining city on a hill" when talking about the future you see for America. Isn't clean air and water, better stewardship of the land, a sane energy policy, and safeguarding our precious wildlife resources an essential part of the picture?*

Reagan: Absolutely. America's tremendous economic recovery has been achieved while preserving the wildlife, scenic grandeur and other environmental treasures we Americans hold dear.

In fact, these values have been enhanced through such initiatives as the billion dollar park restoration and improvement program, the great surge in private sector contributions of time, land, money and equipment to the parks and wildlife refuge systems, several exciting fishery restoration projects, and the Chesapeake Bay recovery effort — just to name a few.

During my second administration, we're going to continue to be good stewards of all these priceless resources.

Wildlife: *Of all the major environmental problems facing us in this country today, which do you consider the most pressing? And how will your administration address the issue?*

Reagan: Well, there are several — and we are addressing each of them. Certainly we are going to keep working on identifying and cleaning up toxic waste sites. Of equal importance is implementing the recently enacted changes to

the Resource Conservation and Recovery Act, which regulates currently operating toxic waste disposal sites. A strong RCRA program is insurance against the mistakes that led to the need for the Superfund.

We also must continue our aggressive effort to identify the factors that contribute to acid deposition so that we can determine whether our existing air pollution controls are sufficient.

***Wildlife:** Of the thousands of toxic dumps listed by the EPA as dangerous, only a handful are being cleaned up, in spite of Superfund. Both Bill Ruckelshaus, former EPA Administrator, and Lee Thomas, your present Administrator, feel much more money is going to be needed. Will you support a $10 billion fund in order to get the job done faster and help people feel safer?*

Reagan: First of all, it's not true that only a handful of the toxic dumps are being cleaned up. Work has been done at hundreds of sites, including emergency cleanup and engineering studies. Keep in mind that each site is different, and with groundwater or deep soil contamination, you can't just bring in a bulldozer and be done with it. Some sites will take years to clean up.

When we took office the Superfund had just been authorized. We had to start from scratch on a problem that had been ignored for decades. Our cleanup record is a good one, and we'll keep moving ahead on this.

In my last two State of the Union Addresses, I committed our administration to support Superfund reauthorization. On February 22, I sent to the Congress proposed legislation to keep that commitment. The bill would more than triple the size of the Superfund program — from $1.6 billion to $5.3 billion over the next five years. The EPA has estimated that it cannot prudently spend more than $1 billion per year, so our proposal sets the best funding level for getting the job done.

In addition to the expansion of Superfund, we have asked for increased enforcement authority to make responsible parties either do the cleanup or pay for it. We also want a larger role for affected citizens and the states, and expanded authority to respond to emergencies.

There's no doubt we have to move forward aggressively to eliminate the dangers caused by years of past waste disposal practices. It takes time, but we're getting it done.

I have instructed EPA Administrator Lee Thomas to make reauthorization of the Superfund his highest priority.

***Wildlife:** Many of your administration's environmental policies seem directed toward changing the role of the Federal government. What do you believe is the appropriate role of the government in environmental protection?*

Reagan: I believe one of the most important responsibilities of government is protection of the environment — air, water, wildlife, parks and so forth. But let's remember that in our country there are several levels of government. What we have tried to do is restore the partnership of the Federal government with the states in protecting the environment.

> *"The open lands, the wild lands, are an important part of our heritage, and I think every American should have the opportunity to experience that."*

Some of these protections require Federal leadership because, if a problem is not dealt with adequately in one state, the problem "flows," so to speak, into neighboring states.

But there are many environmental and resource protection measures that are better and more effectively handled by states or localities.

We have been trying to restore the principle that the Federal government should take the lead in environmental protection and managing natural resources where the national interest is involved, and that the states and localities should shoulder the responsibilities where they can and should be doing the job.

That Federalist principle is a sound one and a very American one. Overly restrictive, overly costly and inappropriate Federal regulations too often have done more harm than good.

***Wildlife:** If states are given the responsibility for setting environmental standards, isn't there a possibility that many will enter into competition for new or relocated industry by reducing stringent environmental controls?*

Reagan: That is a legitimate concern in some cases. We support and are enforcing the laws that require states to establish and police environmental standards.

For example, surface mining regulation is one instance where Congress says the states must meet certain standards, and the Federal government must intervene if they don't. We have intervened — we've taken over two state programs — when they failed to live up to the standards established under the Federal strip mining law.

But we think in most instances the states should enforce environmental protection programs, and should have reasonable flexibility to tailor regulations to adjust to the situations within each individual state.

***Wildlife:** The Endangered Species Act requires that the habitat needs of certain troubled species take precedence over Federally authorized development. Do you believe that water development projects, as one example, should be modified or even cancelled when necessary to protect the habitat of an endangered species?*

Reagan: As you know, the Endangered Species Act provides for Federal activities to be carried out so that endangered species are not jeopardized. Under the conditions you state in your question — where it is the only alternative to protect an endangered species — modification of the project or, if necessary, cancellation may be appropriate.

As you also know, the act as amended does provide for Congressional consideration of waivers in cases of unresolvable conflict. This provision has been little used. When it has, satisfactory alternatives have usually been found to protect endangered species and let the project go through. We believe that sound planning and active public involvement can minimize conflicts and, in most cases, resolve them.

***Wildlife:** When you go to Canada next week to meet with Prime Minister Mulroney, the number one topic may be acid rain. What will you say when he asks what Uncle Sam is going to do?*

Reagan: What many people do not realize is that the United States leads the

world in air pollution control. Since 1973, the U.S. has reduced sulphur dioxide by 26%. New automobiles are equipped with pollution controls that almost eliminate emissions of hydrocarbon and carbon monoxide. As a people, we have spent over $150 billion in higher fuel costs and electric power rates to achieve these reductions.

This year, I have asked Congress for a 33% increase in funds, $88 million, to conduct research on the causes of acid rain and ways which its damage may be corrected.

Independent of acid rain controls, the EPA has proposed new regulations which will reduce the suspected pollutants. These include new controls for tall stacks at utility plants and reductions in lead added to gasoline. Uncle Sam has been doing his part to make our common environment better.

Wildlife: *Mr. President, your ranch and your visits there provide for you a respite from the tough job in the White House. Our readers would be interested in how you manage your ranch and what you enjoy most about the land and wildlife. Do you attempt or manage the land for any particular wildlife?*

Reagan: I'm not at the ranch as much as I'd like — and never for more than a few days at a time. So I'm not able to run cattle there or actively manage it at all, anymore. But Nancy and I maintain the ranch as open land and we enjoy seeing the hawks, the blacktailed deer, the raccoons and possums, and the other animals that live there.

I think it's important for us to keep open lands in the United States. There's something about the wide open spaces that gives you a real feeling of freedom, and I think the pioneers who settled the West felt that. That's one of the things I enjoy most about the ranch. It brings me back to a sense of history, of remembering where we came from, how our country grew, and what kind of people made it. The open lands, the wild lands, are an important part of our heritage, and I think every American should have the opportunity to experience that.

Wildlife: *About 50 years ago, another President convened a White House conference to address fish and wildlife protection issues. Out of that grew the National Wildlife Federation. Now half a century later, how do you feel about the possibility of calling another White House conference to address conservation and environmental issues?*

Reagan: Well, a lot of good came out of that first North American Wildlife Conference called by President Roosevelt in 1936. Not only did it foster the birth of the General Wildlife Federation, which later became the National Wildlife Federation, but it set in motion the annual series of North American conferences as a way for professionals in the fields of fish and wildlife and natural resource management to meet and discuss current issues and directions.

> *"Recommendations coming out of the Council (NWF's Corporate Conservation Council) will get a fair hearing in this White House."*

Regarding the origins of Presidential involvement in the progress of natural resource management in this country, I think you can look back even further, when another Roosevelt, Theodore, established the tradition of involvement with the natural resources community. I'd like to help carry on that tradition.

Wildlife: *The present problems of the deficit have focused attention upon wasteful programs and government subsidies. Should the Federal government continue to hold sales of public timber that lose money and charge ranchers less than the market rate for grazing livestock on public lands?*

Reagan: First, let me answer your question about grazing fees. This is a topic that Congress will be addressing soon. As you know, Congress established a formula for determining fair market value for grazing livestock on public lands and directed that the formula be used and studied on a 7-year trial basis. We are nearing the end of that test period and will be making recommendations to the Congress in the near future. I'm not ready yet to say what our recommendations will be, but I think it is important that the public receive a reasonable return for use of the public resources.

With regard to public timber sales, this is an important revenue source and is the economic livelihood of many of our small towns and communities. Our budget for this year proposes that we change the calculation of receipt sharing to reflect the annual costs of sales, which will probably discourage sales that lose money. There are many things that must be considered in deciding whether or not to harvest. Cost is one that has to be weighed heavily in the decision process.

Wildlife: *You have signed legislation creating more Wilderness areas than any other President. There are those who argue that we have now established enough. Others hold that we need to protect additional Wilderness. What is your position?*

Reagan: America is blessed with abundant land, water and wildlife resources that provide excellent opportunities to our citizens for outdoor activities. We are fortunate that our predecessors in this government had the foresight to establish great national parks, Wilderness, and wildlife refuge systems to protect the best of these national treasures.

Protection of the nation's park, wilderness and wildlife resources has been and continues to be a high priority of this administration. It is a goal I stressed to Secretary Hodel when I nominated him to be Secretary of the Interior.

With regard to the question of whether we have enough Wilderness already, the Congress established a procedure for inventorying and studying our resources to determine their suitability for designation as Wilderness. We continue to study lands to determine which areas possess Wilderness characteristics and should be protected and preserved. The system provides for input from all interested parties, with the final designation decision resting with the Congress, following recommendations from the Executive Branch.

While there is no absolute answer to your question on how much Wilderness is needed, I think the process established by Congress provides for proper consideration in reaching wise decisions.

Wildlife: *The National Wildlife Federation believes the private sector must take the lead in solving many environmental problems. With this in mind, we have established the Corporate Conser-*

vation Council as a forum in which these issues can be discussed. Would you offer your views on the role you see for the private sector and the value of this kind of exchange?

Reagan: Well, I'm tempted to say, "Welcome to the team!" The National Wildlife Federation isn't alone, by any means, in believing that we need to tap the vast talent and know-how the private sector can offer in dealing with the nation's natural resource issues. I'm for using the broadest array of expertise we can put together to address these matters.

We've *always* believed that this was the way to go, and that government can't do the job alone. That's the motivation behind our private sector initiative effort. We've been trying to open up the avenues by which business and industry can tackle some of these issues that are growing beyond the means of any one organization or government agency to solve.

If your Corporate Conservation Council can support these ventures and provide a forum for ideas on how best to build these sorts of partnerships, it will be doing a real service. I can assure you that any recommendations coming out of the council or any similar body will get a fair hearing in this White House.

We've pioneered a number of private sector projects at the Interior Department. For example, the new National Fish and Wildlife Foundation will help promote even greater private sector involvement in fish and wildlife issues. The Foundation, as you know, is designed to encourage donations of funds and property to support the activities of the U.S. Fish and Wildlife Service.

So we've got the ball rolling, and I welcome the Federation's Corporate Conservation Council to help us keep it going with your ideas, your direction, and your support.

***Wildlife:** Many studies have concluded that pollution controls actually provide economic benefits through increased employment and business profits. Isn't this a strong argument for pollution cleanup?*

Reagan: Let's just say that I don't need that argument to convince me of the need for pollution prevention and pollution cleanup. The strongest *economic* argument for pollution prevention and cleanup is the fact that excessive pollution levies some very heavy costs—costs in terms of added health care problems, avoidable injury, deterioration of structures and equipment, and harm to tourism and recreation attractions.

Pollution abatement and cleanup do provide opportunities for some new businesses, and more employment. Of course, we also have to recognize they add to the final cost of goods and services. Consumers either pay the higher costs for the U.S.-made goods, or perhaps switch to cheaper imports, adding to our international balance of trade deficit. This same process also can price U.S. goods out of international markets, with the same consequences.

I think the point here is that pollution control has both benefits and costs, and that a wise government learns to weigh both carefully as it protects the public interest.

***Wildlife:** Mr. President, your ranch and being out-of-doors obviously give you a great sense of well-being for renewal. For the vast majority of Americans, their "ranch" is found in parks, wilderness areas, refuges — public lands. When you head for your ranch, Mr. and Mrs. Joe Citizen pack up the kids and visit parks, go fishing, camping, hiking and backpacking. Would you suport investments in parks, natural areas, etc., to protect this outdoor heritage? Many of our readers might wonder if deferral does not mean loss of these lands.*

Reagan: Yes, I support investments in parks, natural areas and other portions of our outdoor heritage, and our track record shows it.

> *"The strongest economic argument for pollution prevention and cleanup is the fact that excessive pollution levies some very heavy costs."*

From 1981 through 1984, the National Park Service spent over $365 million to acquire nearly 64,000 acres of new parkland. More than 10,000 acres were acquired by donation or transfer. Another $66.8 million is available in 1985 for the National Park System.

As you know, we have recommended a three-year moratorium, beginning in 1986, on purchase of new Federal parklands in light of our national need to do something about the budget deficit. But our commitment to protecting our outdoor heritage has not diminished. In fact, even our 1986 budget request includes $11.3 million for emergency land acquisitions so that truly threatened areas will not be lost. We will continue to seek creative alternatives to Federal purchase, such as land exchanges, donations and easements, until our Federal budget situation allows us once again to buy additional lands.

In addition, as many of your members know, we have just completed — one year ahead of schedule — a historic park restoration and improvement program which provided more than $1 billion for restoration and improvement of facilities in the National Park System. For too long those parks had been left to deteriorate. Now, they've been cleaned up.

We'll keep working with individuals and businesses to encourage private initiatives to benefit the nation's outdoor heritage. It's a birthright of all Americans.

***Wildlife:** Finally, Mr. President, what would you like to leave as the environmental legacy of your terms in office?*

Reagan: Early in this century, President Theodore Roosevelt said that we should treat the natural resources as assets which we must turn over to the next generation increased and not impaired in value.

That's the legacy I want to leave — fewer toxic waste hazards, cleaner air and water, identification of causes and a framework for reduction of acid rain, better maintained and managed national parks, improved protection for wetlands, effective fishery restoration, more recovery programs for endangered species, additional wilderness, and a new spirit of partnership in the stewardship of the land and its resources.

This legacy would include the promise of a future free of international conflict that would bring the ultimate in environmental disaster. And the legacy would include an America that has the economic vitality to maintain and protect the environmental ethic so well stated eight decades ago by Teddy Roosevelt. ■

Attachment #3.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release March 26, 1984

STATEMENT BY THE PRESIDENT

I have signed today H.R. 2809, a bill "To establish a National Fish and Wildlife Foundation."

H.R. 2809 would establish the National Fish and Wildlife Foundation to encourage and administer donations of real or personal property, in connection with U.S. Fish and Wildlife Service programs and other activities to conserve fish, wildlife, and plant resources of the United States. The Foundation's governing Board of nine Directors would be appointed by the Secretary of the Interior. H.R. 2809 would also authorize the Attorney General to sue the Foundation if it should appear that the Foundation's actions are inconsistent with the purposes of the Act.

I have signed H.R. 2809 because it promotes important conservation and preservation goals and encourages private sector initiative to aid us in attaining those goals. I must note my serious reservations about the approach taken in the bill. Before this bill was passed, the Department of Justice advised the Congress that the bill's provisions, taken together, create ambiguity about whether the Foundation is to be a private entity or an establishment within the Executive branch. The statements in the bill to the effect that the Foundation shall be a nonprofit, charitable corporation and that it shall not be an agency or establishment of the United States are contradicted by the facts that the Foundation is established by Congress, funded by Congress, and endowed with the sole purpose of assisting and benefiting a Federal agency, the U.S. Fish and Wildlife Service; its property is made exempt from condemnation by State and local governments; and its Directors are all appointed by the Secretary of the Interior. Moreover, the bill exempts the Foundation from certain provisions of the United States Code which would be clearly inapplicable if the Foundation were truly nongovernmental.

Entities which are neither clearly governmental nor clearly private should not be created. The Supreme Court has recently warned against constitutional innovations merely because they seem to be expedient. Establishment of the Foundation under the terms of the bill is an unwise and dangerous precedent. I have, therefore, given serious consideration to vetoing the bill even though I support its laudable objectives. I have not done so because the Attorney General has advised that the bill can be given a constitutional construction.

I have been advised by the Attorney General that the governmental character of the Foundation predominates. Under the Supreme Court's cases, the character of an agency will be determined by its functions, not its label. Buckley v. Valeo, 424 U.S. 1 (1976). On this basis, the Foundation must be regarded as an establishment within the Executive branch. The Directors of the Foundation, therefore, will be removable at the discretion of the Secretary of the Interior, because they are appointed by him and they exercise no powers which

more

(OVER)

enforce compliance through suit by the Attorney General, an aspect of the bill which raises significant constitutional issues. In addition, I have directed the Attorney General and the Secretary to examine the other provisions of the bill to determine how they should be given effect consistent with constitutional principles.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

attachment # 4.

June 21, 1983

note: 5 days after meeting with WATT.

Executive Agency Unit
Federal Bureau of Investigation
J. Edgar Hoover Building - Room 5210, TL-243
Ninth and Pennsylvania Avenue, N.W.
Washington, D.C. 20535

Dear Sir:

In conjunction with an official investigation, pursuant to E.O. 10450, it is requested that a check of the FBI Identification Records be made on the following individual:

Name: Theodore N. Gianoutsos
Date of Birth: 8-5-42
Place of Birth: Southbridge, MA
Social Security Number: 017-32-0429
Residence: Arlington, VA
Oxon Hill, MD
Boca Raton, FL

It is requested that the results of your records check be mailed to:

Mr. Robert A. Smoak
Chief, Division of Enforcement and Security Management
U.S. Department of the Interior
18th & C Streets, N.W. - Room 5426
Washington, D.C. 20240

Check of FBI Headquarters [illegible] files based upon data submitted and limited pursuant to established policy located no identifiable information pertinent to your inquiry. This is not to be considered as a clearance. A request to check arrest records must be submitted to FBI Identification Division. Fingerprints are necessary for positive check.

Thank you for your assistance in this matter.

Sincerely,

Robert A. Smoak

Robert A. Smoak
Chief, Division of Enforcement
and Security Management, PMO

TR

Steve FYI

Attachment 5a.

LES AuCOIN
1st District, Oregon

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

Sept. 7, 1983

Mr. James A. Baker III
Chief of Staff
The White House
Washington, D.C. 20500

Dear Mr. Baker:

It has come to my attention that Mr. Theodore Gianoutsos has been notified of his imminent dismissal from his position as senior analyst at the Department of Interior.

I have also come to know that within the Department of Interior it is widely know that Mr. Gianoutsos has knowledge of some malfeasance regarding public funds. Furthermore, I have learned that as a prelude to his dismissal, Mr. Gianoutsos has been placed in a 30-day non-work status.

I am writing to urge you to personally review this case before the end of the 30-day period, for it would be indeed alarming if a sincere whistle blower was removed for doing his duty.

I also ask that I be kept advised of the White House progress on this case, for it will be my intention, without taking sides in this dispute, to ask the Chairman of the House Appropriations Subcommittee on Interior to ask Mr. Gianoutsos to come before our subcommittee and brief us fully.

With warm regards,

Sincerely,

LES AuCOIN
Member of Congress

cc: James Watt

2448 Rayburn House Office Building, Washington, D.C. 20515 (202) 225-6065
1716 Federal Building, 1220 SW Third, Portland, Oregon 97204 (503) 221-2901, Oregon Toll Free Line 1-800-452-1958

SE? 56.

THE WHITE HOUSE

WASHINGTON

October 5, 1983

Dear Congressman AuCoin:

Thank you for your recent letter concerning Mr. Theodore Gianoutsos' proposed removal from his position as a management analyst at the Department of Interior.

While I appreciate your concern, I believe this is a matter which more properly comes within the purview of the Special Counsel of the Merit Systems Protection Board, pursuant to his authority as set forth in Title 5 of the United States Code. Accordingly, I have asked the Counsel to the President to forward your inquiry to the Special Counsel, for his review.

Sincerely,

James A. Baker, III
Chief of Staff and
Assistant to the President

The Honorable Les AuCoin
U.S. House of Representatives
Washington, D.C. 20515

CLARENCE D. LONG
2D DISTRICT, MARYLAND

COMMITTEE ON APPROPRIATIONS

CHAIRMAN
SUBCOMMITTEE ON FOREIGN OPERATIONS

MEMBER
SUBCOMMITTEE ON MILITARY CONSTRUCTION

TREASURY, POSTAL SERVICE, GENERAL GOVERNMENT

Congress of the United States
House of Representatives
Washington, D.C. 20515

2401 RAYBURN BUILDING
WASHINGTON, D.C. 20515
(202) 225-5061

DISTRICT OFFICE
305 POST OFFICE BUILDING
CHESAPEAKE AND VIRGINIA AVENUES
TOWSON, MARYLAND 21204

"OFFICE ON WHEELS"

5c.

December 5, 1983

President Ronald Reagan
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

I am writing to bring to your attention a letter I received from two distinguished civil servants, Tad and Francoise Gianoutsos, who appear to have been improperly terminated from their jobs.

I am especially concerned about the allegation that Mr. Gianoutsos was fired from the Department of Interior as reprisal for whistleblowing — an action specifically prohibited by law.

I would appreciate it if you would look into this matter and advise me of what actions are being taken.

Sincerely,

CLARENCE D. LONG

CDL:cas
enclosure

THIS STATIONERY PRINTED ON PAPER MADE WITH RECYCLED FIBERS

Attachment #6

U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
Washington, D.C. 20515
August 3, 1984

Honorable William P. Clark
Secretary
Department of the Interior
Washington, D. C. 20240

Dear Secretary Clark:

On March 26, 1984, the President signed the Fish and Wildlife Foundation Act into law (P.L. 98-244). The law provides for the establishment of a Foundation to encourage, accept and administer gifts of properties and services for the benefit of the U.S. Fish and Wildlife Service and to conduct other activities as will further the conservation of fish and wildlife resources of the U.S.

I believe this legislation is an important incentive to encourage volunteers to become involved in the conservation of wildlife in general and the work of the Fish and Wildlife Service in particular. I hope that the legislation will be implemented promptly and properly.

To this end, I would appreciate receiving from you a schedule of implementation of the Act, including in particular the selection of the board of directors of the Foundation and plans for applying for tax exempt status for the Foundation.

Thank you for your consideration.

Sincerely,

/s/

JOHN B. BREAUX
Chairman
Subcommittee on Fisheries
and Wildlife Conservation
and the Environment

cc: G. Ray Arnett
bcc: Ted Gianoutsos

Attachment #7.

THE PRESIDENT'S MESSAGE

by Don McMillan

I very recently returned from a hunt and tour in the Republic of South Africa along with fifteen others, most of them members of Safari Club International. For those of you who have not travelled to the country of South Africa I want to assure you that both hunting and touring in that country is a truly wonderful experience. The people are as friendly as you will find anywhere, the scenery is spectacular and game animals are very abundant, to say the least. It is a hunter's paradise and a real bargain for Americans at this time. The U.S. dollar will go twice as far as it did two years ago, for example.

Contrary to what you may have read and heard, South Africa was as safe for travel as the United States. I found that the people of South Africa were very concerned about their image in the world today and were very willing to talk to people from other countries, such as the United States. Hopefully, the rest of the world will not pass judgement on this country on the basis of distorted reports that seem to come before us through political motivation. The people of that great country realize they have problems which are very unique to their area. We must have patience with the timing of the changes that will be made in these areas. Also, until we have established an idealistic society here in the U.S., free from racism, corruption and other crimes against humanity, we should put our criticism in the proper prospective. If you enjoy hunting and the experience of a great vacation, I would strongly suggest that you consider a trip to South Africa. Believe me, you will not regret it.

continued, page 08

PRESIDENT'S MESSAGE

continued from page 7

While we are on the subject of Africa I am very happy to report to you that SCI has purchased the hunting rights in two prime areas in the country of Zimbabwe. This decision was made after considerable discussion by the officers of SCI, the Executive Committee and the Board of Directors. The areas are located in the Northwestern part of Zimbabwe not far from Victoria Falls and the Zambezi River. This area is also called the Matetsi Area of Zimbabwe and has supplied some top trophies which have ranked high in the SCI Record Book. Some of the trophies that are available include lion, elephant, cape buffalo, leopard, sable, common waterbuck, kudu plus a host of others. The accommodations are very deluxe and observers are welcome at a very reasonable cost. Information on hunting in these areas is available from SCI headquarters in Tucson.

Our objectives in this Zimbabwe endeavor are two-fold. The profit from the hunting operations will help us fund various conservation projects in the United States and Africa and, in particular, the country of Zimbabwe in conjunction with National Parks and Wildlife Management in that country. Secondly, we will be able to offer some very excellent hunting opportunities to our members as a benefit to belonging to SCI. Many other considerations are of direct benefit to the country of Zimbabwe. We are employing several professional hunters in that country as well as a number of other people who serve various aspects of a hunt. And, of course, we are providing an influx of much-needed U.S. dollars into a developing and progressive African country in the form of trophy fees and concession fees.

As we end another year of activity for SCI on the First of July, I look forward to seeing us become more involved in legislative and governmental affairs in the future. We plan to take a more active role in issues such as the jaguar importation into the U.S., the crocodile, the polar bear and issues which face professional hunters and hunters in the State of Alaska. We met with the Alaska Professional Hunters Association in Alaska on April 1, 1985 to discuss some of the very important issues which face all of us in that state. Although we are faced with anti-hunting forces and regulatory problems in all of the United States, the State of Alaska has more than its share at this time. All of these issues will affect our hunting in the future. With your help we will be able to do more in these areas.

We have recently commissioned a study of the jaguar population in areas of Latin and South America in conjunction with the Department of the Interior, which we hope will pave the way for the importation of legally hunted trophies into this country. This is the same situation that we faced with the leopard a few years ago and just as we were successful in correcting that inequity we hope to see similar action with other species. The jaguar, polar bear and the crocodile are not endangered in many countries and should come into the U.S. in the form of legally taken trophies, just as the leopard.

My sincere thanks to all of you for supporting the goals of SCI in the past; the conservation of wildlife and the preservation of hunting as a sport. I look forward to serving you for another year.

WAIDMAN'S DANK

continued from page 35

continued.

There was no need for another shot, however, and I had a real nice bull. The horns were just under 37 inches with very heavy bases, which is a very good bull for this area.

Both shots had taken my bull just behind the shoulder, but the stamina of African game is unbelievable. The skin on the gemsbok is very thick and I don't think you would be overgunned with a gun in the .375 H&H class for these animals.

My hunt in Namibia was almost over, but I still had one more highlight to the trip. As a side attraction after the hunter has taken his game, Hermann likes to take his hunter to the Etosha Pan on a photographic sight-seeing trip. The Etosha National Park is one of the largest in the world. You can see thousands of animals in large herds virtually undisturbed; it is truly a paradise for wildlife. Elephant, lion and many different species of antelope roam as they have for thousands of years in Africa. If you are going to be in this part of Africa, I would highly recommend you take a few extra days to see this wonderful place.

As we bid our farewells I gave one more Waidmanns Dank with a promise to return again some day to this great game-rich country and its hospitable people.

(Anyone interested in the hunt can write Hermann Redecker at P.O. Box 180, Otjiwarongo, Namibia/S.W. Africa.)

SCI $$$

One of the actions recently approved by the SCI Board of Directors was the granting of $21,000 to finance studies on two species now protected under the Endangered Species Act.

Many SCI members who have hunted Africa, Mexico, and Central and South America believe the jaguar and Nile crocodile are incorrectly listed as endangered species, and, in fact, many SCI members are legally hunting them in several countries. However, the U.S. Fish and Wildlife Service continues to list the animals as endangered species and prohibits hunters from importing any part of the trophy animal.

The SCI Executive Committee has indicated that if adequate research proves these animals are incorrectly listed, then SCI will seek a status change allowing U.S. sport hunters to once again import their legally taken trophies.

The National Fish and Wildlife Foundation received $20,000 of that amount for research to learn the status of the jaguar of North and South America. Another $1,000 was authorized to begin negotiations in Zimbabwe for a study of crocodiles in southern Africa.

Tom McMillan of the Fish & Wildlife Foundation has accepted the donation, and Dr. Wendell Swank of Texas A&M University and Dr. James G. Teer of the Welder Wildlife Foundation have been contracted to conduct the jaguar study. This is the same respected team of wildlife scientists the U.S. Fish and Wildlife Service hired to confirm SCI's privately financed studies that led to the reclassification of African leopards.

Attachment #8.

T. N. Gianoutsos
5621 N. 23rd St.
Arlington, VA 22205

Mr. David Packard
Mr. William A. Molini
Mrs. Beatrice C. Pickens
Mr. John F. Bookout
Mr. Michael H. Shlaudeman
Members of the Board of Directors
National Fish and Wildlife Foundation
Washington, DC

March 1, 1985

Dear Directors:

Congratulations on your recent appointments as Directors of the National Fish and Wildlife Foundation. It's an organization like no other. You are the first Directors of the first and only congressionally chartered wildlife conservation foundation in our history.

We want to help you in your important work in any way we can. We have a great interest in the Foundation. After all, we are, as you know, its founders! We therefore would like to meet with you as soon as possible to discuss the following issues:

1. The establishment within the Foundation of a restricted endowment account to be known as "THE THEODORE AND FRANCOISE TREFFEL-GIANOUTSOS WILDLIFE TRUST." This fund would be created with the $5,000.00 which we have already given and matched with an additional $5,000.00 of congressionally appropriated funds. The $10,000.00 would be used to purchase a 30-year Treasury Bill. The annual interest would be applied to the Service's programs dealing with 1. Hunter Education, Ethics, and Safety, and 2. Recovery of endangered raptors. The trust fund would also be the recipient of our active benefactor contributions which we have already pledged to make. The trust fund would also be the beneficiary of our estate (see enclosed letter from our attorneys to Secretary [illegible] concerning the gift of our estate to the Fish and Wildlife Service on [illegible]).

2. Three specific projects to be undertaken by the Foundation:
-- The "Endangered species foster parent program"
Our idea for this program is to use the Foundation as a mechanism to attract large donations from both corporations and wealthy individuals to provide long-term funding for endangered species recovery programs conducted by the Service, e.g. a corporate donor or individual could become the foster parent for the endangered species of their choice taken from the current FWS list for a donation of 1 million dollars (2 millions to be both foster father and foster mother!). The money would be placed in 30-year Treasury Bills, the annual interest would be applied to the recovery program for that species (it takes 20 to 30 years to recover a species). The donation could be in the form of cash, bonds, etc.. It would of course be tax-deductible and would provide for the corporate donor the added bonus of invaluable good publicity! The corporate donor could provide annual status report in its national advertising on the progress of its "foster" child. At the end of the 30-year term, the capital would revert to the general endowment fund of the Foundation. This program alone could bring in 100's of millions of dollars to the Foundation and

over time including principal and interest billions of dollars for the Service's programs.

-- The "Pledge your land for wildlife conservation program"

Under this program, the individual or corporate donor would provide to the Foundation conservation easements, development rights, etc., to their land while still retaining the beneficial interest to the land. The Foundation would thus become the mechanism for insuring the protection of wildlife on the land without expense as the expenses as well as the beneficial interest would be retained and borne by the owner. E.g. a timber company could give the development rights to its land to the Foundation, take a tax deduction and still plant and harvest its trees. The Foundation is in a unique position to attract these gifts because due to its congressional charter, it's the only conservation organization in America which can absolutely guarantee the tax deductibility of the gift to the donor. All other organizations, Nature Conservancy, Audubon, etc. must apply on a case by case basis to the IRS for a ruling. This takes much time and coststhousandsof dollars which must be borne by the organizations or the donor.

-- The "Life insurance for wildlife conservation program"

Under this program, individuals of modest means, such as ourselves, could greatly enhance their contribution to wildlife conservation by taking out a life insurance policy for benefit of the Foundation. This practice is well-known and well-accepted in the university, church, hospital environment. The individuals could further enhance their gift by further stipulating that the proceeds of the insurance be placed in 30-year Treasury bills with the interest to be applied to their favorite FWS program. As most of the money in our estate would be provided by life insurance, we have already done this and both should serve as a role model for others to emulate. This program also has a potential for providing very large amounts of money to the Foundation.

-- The presentation to the Board of Directors of an autographed copy of the National Fish and Wildlife Foundation Act. It took us 3 months to garner the signatures of all 80 cosponsors on an authentic "red Line" copy of the Act. We have had it suitably framed and would like to present it to the Board of Directors to be kept by the Foundation as a historical document and to be displayed in its offices.

-- To discuss how our own personal fundraising efforts could be best coordinated with those officially undertaken by the Board.

Finally, for your perusal, we have enclosed a document entitled "History of the National Fish and Wildlife Foundation" which is a true and exact statement of the facts and events which led to the creation of the Foundation (enc.1). We have also enclosed other documents relative to the Foundation and our effort which brings us to our final point. Unpleasant though it may be, we all must confront and address this issue so that the Foundation can move forcefully towards its future unfettered by the past. As you will note in the enclosed letters, we have called upon G. Ray Arnett, Robert Jantzen, and Thomas McMillan to resign. We have not taken this action lightly. Unfortunately, it became necessary to do so. Their actions have clearly demonstrated that they have neither the courage nor the total commitment to the public good to do what's right. The Foundation requires more than what they are willing to give. We hope they will resign and that it will not be necessary for you to remove them. We trust that you will do what's right, exercise your power, remove them and ask Secretary Hodel to fill the vacancies as soon as possible.

You will never know the joy that we feel seeing our dream of 2 years ago become a reality! That's why we're so looking forward to hearing from you very soon. The Foundation exists; what it now needs is nurturing, guidance, and a loving care from those who want to give. Let's work together and make it all that it can be!

Sincerely yours,

Theodore and Françoise Gianoutsos

Enclosures

P.S. If you wish to talk with us, we may be reached at (703) 533-7830 after 6PM.

JIM WRIGHT
TEXAS
MAJORITY LEADER

Attachment # 9a.

Congress of the United States
House of Representatives
Office of the Majority Leader
Washington, D.C. 20515

March 25, 1983

Mr. and Mrs. Theodore Gianoutsos
5621 North 23rd Street
Arlington, Virginia 22205

Dear Ted and Francoise:

Thanks for dropping by the office the other day. Marshall has given me a full report on your extraordinary generosity in providing that your estate be given to the U.S. Fish and Wildlife Service to help provide America's magnificent fish and game resources.

Ted, this act on the part of you and Francoise is that of truly patriotic Americans who have a deep and abiding sense of responsibility to protect our country's bountiful gifts for future generations. I sincerely commend you for this.

If legislation is necessary to set up a foundation, I will be pleased to offer my assistance to the Speaker and others who are working with you.

Best wishes.

Sincerely,

Jim Wright

Attachment # 96.

LES AuCOIN
1st District, Oregon

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

November 29, 1983

President Ronald Reagan
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

I am writing to encourage you to sign H.R. 2809, a bill which establishes a United States Fish and Wildlife Foundation, when it comes to your desk.

The legislation, which I co-sponsored when it was introduced last April, has passed the House and the Senate without controversy or opposition and has been returned to the House with some minor technical amendments. Final approval of the legislation is expected very early in the second session of the 98th Congress.

H.R. 2809 creates a non-profit foundation designed to receive and administer private donations, including real and or personal property, trusts, and securities in order to promote and assist the United States Fish and Wildlife Service. This bill provides a mechanism whereby individuals can donate not only their time and energy but equally valuable, tangible property of all kinds to aid the Fish and Wildlife Service in conserving our natural wealth.

This legislation would not have been written had it not been for the personal generosity of Ted and Francoise Gianoutsos. They, as private citizens, wanted to establish a trust for the benefit of the Fish and Wildlife Service with the proceeds being used to further the conservation of fish and wildlife resources. I believe they should be commended for their patriotism and generosity.

Mr. President, I urge you to give this matter your favorable consideration when it reaches your desk early next year.

With warmest personal regards,

Sincerely,

LES AuCOIN
Member of Congress

LA/se

bcc: Ted and Francoise Gianoutsos

2446 Rayburn House Office Building, Washington, D.C. 20515 (202) 225-5927
1716 Federal Building, 1220 SW Third, Portland, Oregon 97204 (503) 221-2901, Oregon Toll Free Line 1-800-452-1959

COMMITTEE ON AGRICULTURE
SUBCOMMITTEES
COTTON, RICE AND SUGAR
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WATER AND POWER RESOURCES
OVERSIGHT AND INVESTIGATIONS

MAJORITY WHIP-AT-LARGE

DEMOCRATIC STEERING AND POLICY COMMITTEE

TONY COELHO
15TH DISTRICT, CALIFORNIA

Attachment #9c

DISTRICT OFFICES
Fresno, California
1130 O Street, Room 2081
Fresno, California 93721
(209) 487-5654

Fresno, California
855 West 16th Street
Merced, California 95340
(209) 383-4466

Fresno, California
1121 L Street
Modesto, California 95354
(209) 521-7914

Congress of the United States
House of Representatives
Washington, D.C. 20515

December 13, 1983

The Honorable Ronald Reagan
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

I would like to take this opportunity to bring to your attention the plight of two fine American citizens who feel that they have been treated unfairly by your Administration. Ted and Francoise Gianoutsos have recently written to you explaining their grievances with the Office of Personnel Management and the Department of the Interior.

While it is not proper for me to comment on their allegations, I must tell you that in my dealings with them I have always found them to be generous, highly motivated and patriotic citizens. Their dedication to preserving our wilderness is amply attested to in the substance of H.R. 2809 which unanimously passed the House on July 12th and S. 1271 which unanimously passed the Senate on November 2nd. The legislation which I support would establish a Fish and Wildlife Foundation enabling the Gianoutsoses to provide several million dollars to the U.S. Fish and Wildlife Service as a thirty year testamentary trust fund. Such generosity speaks well of their public spiritedness.

Mr. President, I would hope that your Administration would do all in its power to review their complaints and deal equitably with their situation.

Sincerely,

TONY COELHO
MEMBER OF CONGRESS

Attachment #9d.

ROBERT T. STAFFORD, VT., CHAIRMAN
RICHARD G. DARMAN, JR., TENN.
JOHN H. CHAFEE, R.I.
ALAN K. SIMPSON, WYO.
JAMES ABDNOR, S. DAK.
STEVE SYMMS, IDAHO
DAVE DURENBERGER, MINN.
ROBERT HUMPHREY, N.H.
GAILEY GUARD, STAFF DIRECTOR
JOHN W. YAGO, JR., MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, D.C. 20510

May 12, 1983

Mr. Ted Gianoutsos
Dr. Francoise Gianoutsos
5621 North 23rd Street
Arlington, Virginia 22205

Dear Mr. and Dr. Gianoutsos:

On Thursday, May 19, 1983, the Senate Subcommittee on Environmental Pollution will hold a hearing on a number of measures relating to the U.S. Fish and Wildlife Service. Among the bills to be considered is S.1271, legislation to establish the "United States Fish and Wildlife Foundation". Your testimony at the hearing would be both helpful and appreciated.

Certainly full credit for bringing S.1271 before the Subcommittee should go to you. We are grateful to you for providing the idea, hard work, and initial funding to establish the Foundation, and join with you in hoping that it will increase opportunities for private citizens to contribute to fish and wildlife conservation.

The hearing will begin at 10:00 a.m. in Dirksen Senate Office Building room SD406. We would appreciate receiving fifty copies of your testimony forty-eight hours prior to the hearing.

We look forward to having you as witnesses.

Sincerely,

John Chafee

John H. Chafee
United States Senator

Attachment #9 e

EDWARD M. KENNEDY
MASSACHUSETTS

United States Senate

WASHINGTON, D.C. 20510

May 24, 1983

Theodore Gianoutsos
Francoise Gianoutsos
5621 North 23rd Street
Arlington, VA 22205

Dear Mr. & Mrs. Gianoutsos:

I am writing to express my deep appreciation for your generous donation to the Fish & Wildlife Foundation and your deep commitment to this legislation.

Enclosed please find a copy of your Statement which was submitted for the Record.

Warm best wishes,

Sincerely,

Edward M. Kennedy

51-578 O—85——4

9e.

S. 1271—NATIONAL FISH AND WILDLIFE FOUNDATION

Mr. KENNEDY. Mr. President, I am extremely pleased to cosponsor S. 1271 to establish the National Fish and Wildlife Foundation. This legislation is endorsed by the National Wildlife Federation and would provide a mechanism to encourage citizen participation in the conservation and management of our fish and wildlife resources.

Two of the supporters of this legislation, Theodore Gianoutsos and Francoise Gianoutsos, have pledged their support for this foundation. In their eloquent testimony today before the Subcommittee on Environmental Pollution, Mr. and Mrs. Gianoutsos quoted President Kennedy, "Ask not what your country can do for you, but what you can do for your country." Truly, their generosity exemplifies precisely what President Kennedy hoped to encourage.

This legislation is in the highest tradition of American democracy and our concern for this preservation of the environment. I am proud to support it and proud of the Gianoutsos family and their desire to share with others of this country an activity that has brought so much joy into their own lives.

Mr. President, I ask unanimous consent that today's testimony by Mr. and Mrs. Gianoutsos may be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TESTIMONY OF THEODORE AND FRANCOISE GIANOUTSOS IN SUPPORT OF LEGISLATION TO ESTABLISH THE U.S. FISH AND WILDLIFE FOUNDATION

Mr. Chairman and members of the committee, it is great honor and privilege for us to be here today to testify in behalf of your recently introduced legislation to establish a United States Fish and Wildlife Foundation. We would like to briefly describe, to you and the committee, our interest in seeing such a foundation created.

We share the immigrant's love for America, principally because Ted's parents are Greek immigrants to America and Francoise herself is an immigrant from France. Over the past 30 years of our marriage, we have often remarked at how fortunate we are to be able to enjoy the many benefits and opportunities which our country affords us. As we have matured we have come to realize that with those benefits and opportunities come responsibilities and there comes a time when one should, in President Kennedy's words, "ask not what your country can do for you, but what you can do for your country." In truth, America has been very good to us. We had the opportunity to earn several university degrees, thanks in large part to Government loans and grants of one type or another. We have prospered and live a relatively very comfortable life. Many times over the past several years we have asked ourselves what can we do to help our country. Several events of 1982 crystalized our thoughts and motivated us to act. We suffered two deaths in the family. (Francoise's mother and great-uncle passed on, closely following the death of her father, who died 3 years ago); our brother-in-law, only 7 years older than we, suffered a massive heart attack, and finally, we were run off the road at high speed by an ongoing truck and were brought face to face with our own mortality. Realizing that the remaining members of our family were relatively well-off and have no children we focused our attention on our estate.

Mr. Chairman, our greatest pleasure in life is to be out in the woods and fields. We are both avid outdoor people and particularly enjoy hunting, fishing, and training bird dogs; currently two labradors. We spend every spare moment dog training or hunting or fishing or photographing wildlife or walking in the woods or just lying in some field watching the grass grow. Fish and wildlife conservation is therefore the area in which we have chosen to make our modest contribution. We became aware of the Department of the Interior's mission and especially that of the Fish and Wildlife Service through Ted's association with Interior over the last 5 years. We have developed a great respect and affection for the Department of the Interior, and the more we learned about the Fish and Wildlife Service's programs, the more we became convinced we could and should help.

In January of this year, we asked our friend and attorney, Pat O'Connor, of O'Connor & Hannan to help us redraft our wills and establish a 30-year testamentary trust for the benefit of the U.S. Fish and Wildlife Service. Our wish is to have the bulk of our estate invested in 30-year U.S. Treasury securities with the interest to be annually given to the service for use in their programs of hunter education, ethics, and safety and recovery of endangered species, particularly raptors. At the end of the 30 years the principal would also be given to the service and thus over the course of 30 years, several million dollars would be made available for these important programs.

During the course of meeting at Interior with our attorneys, Interior attorney and program people, it became apparent that although Interior and the Service had gift authority, no mechanism existed, other than the national Park Foundation (which can only by law benefit park service programs), for the reception and administration of a multiyear grant or trust. We realized that we had inadvertently been presented with an opportunity to be of more immediate use to the Fish and Wildlife Service by acting as the catalysts for the creation of a U.S. Fish and Wildlife Foundation. We decided to meet the challenge and assume the responsibilities of championing the foundation's cause. We have been enthusiastically and warmly supported and encourage by many professionals with the Fish and Wildlife Service and especially by Director Jantsen and Assistant Secretary Arnett. There was no need to search very far for someone to introduce such legislation in the Senate, Mr. Chairman, you were the natural choice. Your enthusiastic response and the most generous contribution of your time and efforts, and that of your staff to draft, introduce, and hold hearings on this legislation are greatly appreciated by us and will not be forgotten. We thank you for being so accessible and so willing to help.

This foundation can and should be a focal point for those citizens and organizations who want to help the service in its important work. Indeed if the foundation had existed when Dupont made its generous multiyear grant to the service for the eagle recovery program, two-thirds of the grant could have been invested to earn interest and this interest would have increased the grant and would therefore have benefited the eagle program that much more. The foundation would also allow individuals to become involved in a sustaining and ongoing manner, through some sort of associates program, with fish and wildlife programs. In this regard we would welcome the opportunity to participate in such a program and would look forward to making a grant, of several thousand dollars each year, to the foundation for use in fish and wildlife programs. Additionally, in order to see the foundation started on a sound financial footing we have already made available a $5,000 check, entrusted to the care of the Secretary of the Interior until the foundation is established, to be used as seed money. We hope that other citizens will join us in providing seed money, grants or requests to the foundation so that it may thrive and foster cooperation between the private and public sectors and citizens and their Government and thus carry out together the important work of conservation of the fish and wildlife resources of America.

In closing, Mr. Chairman, we would like to take this opportunity to thank all those who have demonstrated an interest in this legislation and helped us in our commitment to it; especially Pat O'Connor and Brian Phelan of O'Connor & Hannan, Brian Cole and Russ Fielding of the U.S. Fish and Wildlife Service, Steve Shimberg and Martha Pope on the subcommittee staff, and of course our many friends in the Senate who have agreed so enthusiastically to support and cosponsor this legislation. We also wish to take this opportunity to once again thank all of our friends in the House where this legislatin was first introduced as H.R. 2809 on April 28, by John Breaux chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries. H.R. 2809 has wide bipartisan support and is cosponsored by more than 40 Members. We sincerely thank all of you for your help and encouragement.

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Congress of the United States
House of Representatives
Washington, D.C.

July 18, 1983

Attachment #9 e.

CHAIRMAN
COMMITTEE ON POST OFFICE
AND CIVIL SERVICE

COMMITTEE ON
EDUCATION AND LABOR

SUBCOMMITTEES:
ELEMENTARY, SECONDARY AND
VOCATIONAL EDUCATION
POSTSECONDARY EDUCATION
LABOR-MANAGEMENT RELATIONS

Mr. and Mrs. Thedore Gianoutsos
5621 North 23rd Street
Arlington, Virginia 22205

Dear Francoise and Ted:

Just a note to congratulate you on H.R. 2809. I was pleased to co-sponsor this measure and am glad it passed the House with such ease. Nancy mentioned that you phoned and I hope you will keep us up to date on the Senate action.

With kind regards, I am

Sincerely yours,

Bill Ford

WILLIAM D. FORD
Member of Congress

WDF:nbl

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Congress of the United States
House of Representatives
Washington, D.C. 20515

ARMED SERVICES COMMITTEE
POST OFFICE AND CIVIL
SERVICE COMMITTEE
JUDICIARY

Attachment #9 g.

March 23, 1983

Ted & Francoise:

Thank you for visiting with me on your Fish & Wildlife Foundation. It is a very fine idea. I would be more than happy to help out in any way that would be useful.

Attachment #9 h.

FISH AND WILDLIFE FOUNDATION

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. BREAUX. Mr. Speaker, I have today introduced, along with a number of cosponsors, legislation to establish a Fish and Wildlife Foundation. The impetus for this legislation is the generosity of Ted Gianoutsos, an employee of the Department of the Interior, and his wife, Francoise, who have offered to provide the initial funding to establish the foundation.

The legislation is modeled after similar legislation for the Park Service Foundation and would establish a charitable and nonprofit corporation which accepts and administers gifts from private citizens for the purposes of fish and wildlife conservation.

The foundation would have a board of nine members, all appointed by the Secretary of the Interior, who would serve 6-year terms. The terms of the initial board are to be staggered and the legislation requires that the board represent diverse points of view relating to fish and wildlife conservation. At least three of the members must be educated and experienced in the principles of fish and wildlife conservation.

Mr. Speaker, I hope this legislation will encourage citizens participation in our wildlife conservation programs. The responsibilities of the Fish and Wildlife Service are great and, like most agencies, they face tight budget requirements. Wildlife habitat acquisition, public education about wildlife, endangered species recovery, hunter ethics, and a number of other programs enjoy broad public support but limited funding.

The foundation will provide a means for those concerned with wildlife conservation to lend a hand in a direct and meaningful way. I urge my colleagues to join me in supporting this legislation.●

U.S. FISH AND WILDLIFE FOUNDATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mrs. SCHROEDER. Mr. Speaker, I want to commend Ted and Francoise Gianoutsos for their generosity and patriotism. They have offered to leave a bequest to the U.S. Government in order to help establish a fish and wildlife foundation at the Department of Interior. The foundation would be similar to the current Park Service Foundation.

The Gianoutsos' offer is another example of the American tradition of philanthropy that has so blessed this country. Recall that a bequest in 1829 from James Smithson helped establish the Smithsonian Institute.

There is another parallel here. Smithson was an Englishman. Ted Gianoutsos is a first generation Greek-American and Francoise is an immigrant from France.

The legislation, H.R. 2809, which has been introduced by Representative JOHN BREAUX (Democrat, Louisiana), and which I am proud to have cosponsored, would establish a charitable and nonprofit corporation to accept and administer gifts from private citizens for the purposes of fish and wildlife conservation.

I urge my colleagues to cosponsor this very worthwhile proposal.●

U.S. FISH AND WILDLIFE FOUNDATION

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. AuCOIN. Mr. Speaker, I rise today in support of the bill sponsored by our colleague from Louisiana, the Honorable JOHN BREAUX. The bill establishes a U.S. Fish and Wildlife Foundation for the purposes of promoting fish and wildlife conservation. This Foundation would aid such fish and wildlife programs as hunter education, ethics, and safety and recovery of endangered species. This bill has broad, bipartisan support and has been warmly endorsed by the Interior Department.

All of us owe a debt of gratitude to Ted and Francoise Gianoutsos, the guiding lights behind this legislation. It is through their generosity and patriotism that a Fish and Wildlife Foundation is possible.

I hope my colleagues will join Mr. BREAUX, myself and others in supporting this very worthwhile legislation.●

H.R. 2809—U.S. FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1983

● Mr. LONG of Maryland. Mr. Speaker, I am delighted to join my colleague Representative JOHN BREAUX in sponsoring H.R. 2809, the U.S. Fish and Wildlife Foundation Establishment Act. I commend the members of the Merchant Marine and Fisheries Committee for approving this bill so expeditiously.

The purpose of H.R. 2809 is simple: To provide an opportunity for the American public—concerned citizens, corporations, private organizations and foundations—to support our fish and wildlife conservation programs. This bill was inspired by Theodore and Francoise Gianoutsos, two avid outdoor people, who generally sought to contribute their financial resources to enhance the programs of the Fish and Wildlife Service but found that there was no vehicle to do so.

Modeled on the existing, successful, National Park Foundation, this legislation establishes a charitable and nonprofit corporation which encourages, accepts, and administers private gifts to foster of fish and wildlife resources. It will provide a means for those concerned with protecting endangered species, promoting public education about wildlife, preserving wildlife habitat and other wildlife conservation programs to help in a meaningful way.

At a time when the U.S. Fish and Wildlife Service in facing increased responsibilities with growing budgetary constraints, the creation of a Fish and Wildlife Foundation is surely needed. I urge my colleagues to join me in supporting this legislation when it comes to the House floor for a vote.●

Attachment 9 i.

H.R. 2809, U.S. FISH AND WILDLIFE FOUNDATION

SPEECH OF

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1983

• Mr. CONTE. Mr. Speaker, I rise in support of H.R. 2809, a bill to establish a U.S. Fish and Wildlife Foundation.

Let me take this opportunity to commend the leadership of Chairman BREAUX and members of the Merchant Marine Subcommittee on Fisheries and Wildlife Conservation for their expeditious work in bringing this legislation to the floor of the House.

As a member of the Migratory Bird Conservation Commission—and an avid sportsman myself, I applaud this effort—an excellent example of private sector initiative—to promote fish and wildlife conservation. The U.S. Fish and Wildlife Foundation, established in this legislation, would be authorized to accept and solicit gifts or bequests in any form and to acquire land for conservation purposes. The foundation would not be considered an agency or establishment of the U.S. Government. Similar to the National Park Service Foundation, this quasi-public organization would be a nonprofit, charitable corporation with tax exempt status.

As many members know, the concept of private gifts to the Government is not original to this legislation. This approach, however, does exemplify what many refer to as the private sector initiative. The motivation for such a foundation was not the result of a bureaucratic memo from the Department of Interior nor the executive branch reorganization scheme. The initiative came from the private sector—from an individual who wanted to donate a large sum of money for the preservation of fish and wildlife in this country.

The present law governing the donation of gifts to the U.S. Fish and Wildlife Service is unclear and incomplete. H.R. 2809 would allow individuals or groups to donate land, money or other resources to the Wildlife Service for the purpose of fish and wildlife conservation. With the public sector spending expanding at a constant rate, initiatives from the private sector—such as the Fish and Wildlife Foundation—are a welcome relief and should be accepted gratefully.

I urge my colleagues to support passage of H.R. 2809 under suspension of the House rules.•

S. 1271—UNITED STATES FISH AND WILDLIFE FOUNDATION

• Mr. RANDOLPH. Mr. President, I am pleased to cosponsor legislation being introduced to establish the U.S. Fish and Wildlife Foundation. The Foundation will provide additional opportunities for private citizens to participate in the conservation of our fish and wildlife resources.

It is private citizens, Ted and Francoise Gianoutsos, who have provided the impetus for the Foundation. The Gianoutsos' greatest pleasure in life, in their words, is to be out in the woods and fields." As avid outdoors people, they particularly enjoy fishing and hunting and want to contribute to fish and wildlife conservation. Through their interest and generosity a trust will be created to enhance programs at the Fish and Wildlife Service. Should a Fish and Wildlife Foundation be established by Congress, the trust will terminate with its proceeds given to the Foundation. It is this Foundation that will be created by the legislation being introduced today.

For many years I have served as a trustee of the Claude Worthington Benedum Foundation. From that vantage point, I have seen what can be accomplished when the generosity of individuals is shared with others. Through the Benedum Foundation we have channeled millions of dollars into worthwhile activities in many communities to their benefit and that of thousands of individual citizens.

My personal and very positive experience with Foundations makes me especially appreciative of the Gianoutsos' efforts. I know my colleagues will want to join in thanking them for their dedication to fish and wildlife conservation.•

• Mr. MITCHELL. Mr. President, today I am very pleased to cosponsor legislation to establish the National Fish and Wildlife Foundation. The Foundation will increase opportunities for private citizens to contribute to fish and wildlife conservation.

Appropriately, the idea, hard work, and initial funding provided to establish the foundation has come from dedicated private citizens. Ted and Francoise Gianoutsos are avid outdoors people who wish to contribute to the programs of the U.S. Fish and Wildlife Service. Through their generosity, a trust will be established to enhance programs at the Service that are dedicated to hunter education and ethics, and to the conservation of raptors—birds of prey. They have stipulated that should a Fish and Wildlife Foundation be established by an act of Congress, their trust shall terminate and the proceeds shall be given to the Foundation. It is just such a foundation that we have the opportunity to institute here today.

This legislation is modeled after similar legislation for the Park Service Foundation and would establish a charitable and nonprofit corporation which accepts and administers gifts from private citizens for purposes of fish and wildlife conservation. The Foundation would have a board of nine members to be appointed by the Secretary of the Interior. Members of the board must represent diverse points of view in relation to wildlife conservation and at least three members must be educated and experienced in the principles of fish and wildlife management. The legislation authorizes $1 million to be expended over a 10-year period to match, on a 1-to-1 basis, private contributions to the Foundation. Use of these matching funds and additional private contributions are not restricted to hunter or raptor programs and may be used for other appropriate fish and wildlife conservation activities.

Mr. President, the legislation we are introducing today is an important initiative in fish and wildlife conservation. I join the Gianoutsos in hoping that the Foundation will be a focal point for those citizens and organizations who want to help the Fish and Wildlife Service in its important work. I know that my colleagues will want to join me in thanking the Gianoutsos for their contribution to this effort.•

Attachment # 9 J.

IWLA NEWS

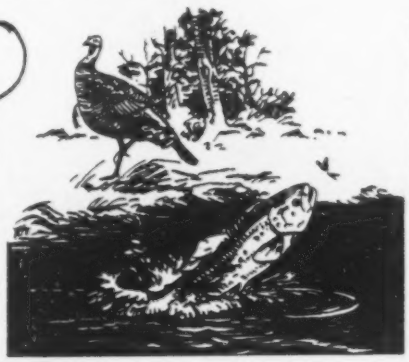
REPORTING IWLA DEVELOPMENTS AROUND THE NATION

League Members Champion Fish and Wildlife Foundation

Two members of the League's Bethesda-Chevy Chase, Md., chapter have made an unusual and generous gift to America's fish and wildlife. Ted and Francoise Gianoutsos have earmarked the bulk of their estate for endangered species recovery and hunter education programs of the U.S. Fish and Wildlife Service.

"We decided to put our money where our mouth is," said Francoise. Both are avid outdoors people who enjoy hunting, fishing and training bird dogs—currently two black labrador retrievers. "Our greatest pleasure in life is to be out in the woods and fields," she said. Since the couple is childless and other members of the family are relatively well-off, the Gianoutsos decided to use their assets to aid the work of the Service.

In the process of working out the details of their bequest, the Gianoutsos recognized that no mechanism existed for administration of a multi-year grant to the agency. Currently, the FWS is allowed to accept only single-year gifts, receiving about $360,000 a year in that form. To allow for management and investment of multi-year bequests, and to make it easier for others to donate money or land to the Fish and Wildlife Service, the Gianoutsos are working with Congress, the League and the agency to establish a Fish and Wildlife Foundation. The foundation is inspired by the National Park Foundation—a private organization empowered to manage and invest funds for National Park Service projects. The NPF channels some [redacted] a year into the park system.



Ted Gianoutsos gives a dog training demonstration during a hunter safety clinic at the chapter property (right); Francoise relaxes with the dogs during a break.

Photos by Milford Sharp

A policy resolution supporting legislation to create a Fish and Wildlife Foundation is expected to be submitted to the League's membership for consideration at the annual convention in July. "There can be little question of the need for this legislation," IWLA Executive Director Jack Lorenz wrote in support of a bill that has been introduced in Congress to establish the foundation. "Although fish and wildlife values enjoy broad public support, federal investments in fish and wildlife conservation have not kept pace. The proposed foundation will provide a focal point and a stimulus for expanded private contributions."

And for the Gianoutsos, the foundation is also a way of expressing their gratitude for the access to natural resources and other advantages they've found in this country. "We share the immigrants' love for America, principally because Ted's parents are Greek immigrants and Francoise is an immigrant from France," the Gianoutsos said in testimony before Congress on the foundation bill. Both Ted and Francoise earned several degrees and went on to assume responsible government jobs— Ted in the Interior Dept. and Francoise in the Office of Personnel Management. "Many times over the past several years we have asked ourselves what we can do to repay our country," they said.

Helping protect America's unique wildlife resources was their answer.

—C.D.

Attachment #9 K.

Conservation Update

Volume 3 Number 4 May 1984

National Fish and Wildlife Foundation Signed into Law

On March 26, the President signed into law a bill to establish a National Fish and Wildlife Foundation. The foundation was conceived by IWLA members Ted and Francoise Gianoutsos, avid hunters who are deeply committed to wildlife conservation.

The idea for the foundation began when the Gianoutsos' decided to name the U.S. Fish and Wildlife Service as beneficiaries of their multi-million-dollar estate, but discovered that FWS was unable to accept multi-year gifts. That meant that the Service could not reap the benefits of investing monies donated for more than a single year's purpose. Under the new law, the foundation can invest donations in interest-bearing accounts and use the income to support the programs of the Fish and Wildlife Service or other activities to conserve the fish, wildlife and plant resources of the United States.□

Conservation Update

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OUTDOOR NEWS BULLETIN

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LONNIE L. WILLIAMSON, EDITOR

Volume 39 February 8, 1985 Number 3

Attachment # 9 L.

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Fish And Wildlife Foundation Staffed:

Seven directors for the newly-formed National Fish and Wildlife Foundation have been named, according to the Wildlife Management Institute.

The Foundation, conceived and promoted by Ted and Francoise Gianoutsos of Arlington, VA, was created by Congress last year. It was established to accept donations of money and property on behalf of the U.S. Fish and Wildlife Service and support the wildlife conservation activities of that agency.

The Foundation is supposed to have nine directors, but only seven have been named. They are: Thomas McMillan of Reno, NV; David Packard of Palo Alto, CA; William Molini of Sparks, NV; Ray Arnett of Arlington, VA; Mrs. Beatrice Pickens of Amarillo, TX; John F. Bookout of Houston, TX; and Michael Shlaudeman of Altadena, CA.

conservation facts

Attachment #9m.

by PAUL HANSEN, Natural Resources & Conservation Editor

The Gift of the Century — A Fish and Wildlife Service Foundation

Ted and Francoise Gianoutsos had a dream. They wanted to leave their entire estate, in millions of dollars, to the Fish and Wildlife Service to fund programs for the enhancement and support of wildlife and fisheries programs. Ironically, before their dream came true, they both lost their government jobs (Ted's was in the Interior Department), they were allegedly insulted and slandered by former Interior Secretary James Watt, but they received the unprecedented support of every member of both Houses of Congress for their proposal to start a Fish and Wildlife Service Foundation.

The dream started a few years ago. It had been a critical time in their lives when they had lost several close relatives, one special friend, and had almost been killed themselves in an automobile accident. Ted and Francoise felt that they had benefited tremendously from our American society. "Many times over the past several years we asked ourselves what we could do to repay our country," they said. "We decided to put our money where our mouths are."

The outdoors is a way of life for this couple. Although they do a little fishing, they are most avid about bird hunting. When I visited them right after Francoise got her first turkey, Ted explained the reason for their unusual bequest: "We share the immigrants' love for America, principally because my parents are Greek immigrants and Francoise is an immigrant from France." Ted is a Vietnam era veteran.

When they looked for a way to give their estate to the Fish and Wildlife Service, they discovered that it was impossible. Amazingly, no mechanism existed for the administration of a multi-year grant to the agency. Currently, the FWS can only accept one-year gifts which must be used before the end of the year. FWS gets about $350,000 a year in this way, but the Gianoutsos' bequest is by far the largest in history. However, giving money to the government for use in one year is wasteful and inefficient, so the Gianoutsos, both efficiency experts, worked with members of Congress, and others, to establish the Fish and Wildlife Service Foundation.

The Foundation will be similar to the NPF (National Park Foundation), a private organization empowered to manage and invest funds for National Park Service Projects. The NPF allows for the management and investment of multi-year bequests and makes it easier to donate money or land—all reasons why the NPF directs over [redacted] million per year into national park projects. It is no wonder that decision-makers in Washington, who ordinarily cannot even agree on the colors of the flag, all agreed that the formation of a Fish and Wildlife Service Foundation was an excellent idea. . . with one exception.

The exception, of course, was James Watt. Besides being members of most of the conservation organizations, the National Rifle Association, and other groups, the Gianoutsos are registered Democrats. They believe that in James Watt's view of the world, that made them the enemy. After ignoring the Gianoutsos for months by not recognizing their bequest with even a note or telephone call (during which time he gave a big public ceremony for a mining company that gave back a mere $1/2 million in unused mineral leases), Watt finally agreed to see them.

Ted and Francoise say that they truthfully thought, due to Watt's reported, deep Christian beliefs, that he was honest and decent and would act appropriately when they had a chance to share their point of view. They were wrong. "From the first moment there was sheer hostility on Watt's part. We were there to give our whole life's estate, and he stood there, actually shaking his finger at us, while slandered and insulted our efforts. He is far worse in his outright arrogance and hatred than anyone imagines. We did not see any Christianity at all. He is so anti-government."

Although the President continues to praise him publicly, Watt is gone now. However, many of his lieutenants and policies remain. The Fish and Wildlife Service Foundation is in the final stages of approval by the U.S. Congress, and the Gianoutsos' bequest will be its first. Votes on the bill in both houses of Congress were unanimous, in spite of Watt's opposition.

Credit: Millard Sharp

Ted Gianoutsos training one of his black labs near his home in Virginia. The Gianoutsos' personal bequest to the Fish and Wildlife Service is the largest in our nation's history.

On September 7, 1983, Ted was locked out of his office and on October 6th, he was officially removed from his post as budget analyst in the Interior Department. The dismissal is due to a controversy around a report he wrote two years ago, alleging waste, fraud, mismanagement and abuse in the operation of construction management in the Interior Department. Whistle blowers are protected by law in our government, and no one in living memory has ever been removed in this way. In fact, both Ted and Francoise are certain that the firing was illegal. They say that for months before Ted was actually removed, he was approached by all sorts of Watt Interior officials with a smorgasbord of deals, including a promotion. Ted refused them all. Several Congressmen, including Republican Majority Leader Howard Baker and Democratic Representative Les Aucoin, have called for an investigation.

Ted and Francoise have had a lot of time to bird hunt this fall with their two black labradors. They are convinced that the Watt legacy is one of massive corruption and prohibitive personnel policies. This American, for one, thanks them for their determination and perseverance in trying to contribute to our Fish and Wildlife heritage. I would be glad to forward them your thanks, too. □

TUESDAY, April 24, 1984 UNITED Feature Syndicate

JACK ANDERSON

Attachment # 9 n.

WASHINGTON MERRY-GO-ROUND

U.S. intelligence trying to close 'voodoo gap' with Soviets

By JACK ANDERSON

WASHINGTON — In past columns, I have reported on secret projects to adapt psychic phenomena to military purposes. For example, in laboratory experiments, psychics have been used to spy on the Soviets by projecting their minds outside their bodies.

One psychic was able to describe a secret Soviet base — in astonishing detail that was later confirmed by satellite photographs. Another located a Soviet Tu-95 "Backfire" bomber that had crashed in Africa.

CITIZENS WATCH: When Ted and Francoise Gianoutsos of Arlington, Va., decided to donate some of their savings to the Fish and Wildlife Service for long-term conservation programs, they were surprised to learn that the agency had no authority to accept money to be used over a period of several years. The law required donations to be spent within the same fiscal year.

So the Gianoutsoses set out to have the law changed. Their efforts were the impetus for legislation establishing a Fish and Wildlife Foundation, a non-profit corporation that will accept and administer gifts for the conservation of fish, wildlife and plant resources, including educational programs and protection of endangered species. During the foundation's first 10 years, the Interior Department will provide up to $1 million in matching funds.

The Gianoutsoses started the ball rolling with a $5,000 donation, and plan to give money each year. They have also set up a testamentary trust fund that should make available several million dollars to the fund when they die.

The foundation bill passed both houses of Congress unanimously, and was signed by President Reagan on March 26 despite his expressed "serious reservations." Actually, the chief opposition to their idea came from then-Secretary of the Interior James Watt. (The Gianoutsoses suspect this was because they are both outspoken Democrats.)

Avid nature lovers, the Gianoutsoses feel their efforts were a good way to give back something to the country that has given them so many opportunities. Ted is the son of Greek immigrants and Francoise gave up her French citizenship to become an American.

Attachment # 9.

AUGUST 1985 VOL. 194 NO. 2

SPORTS AFIELD

Established in 1887

REPORTS AFIELD

Conservation and Outdoor News/Edited by Kit Harrison

Canada Issues First Duck Stamp

In early August, the Canadian Postal Service will issue the first Canadian Habitat Conservation Stamp. The stamp, which must be purchased by all waterfowl hunters in Canada, is the equivalent of the U.S. Migratory Waterfowl Stamp, better known as the Duck Stamp.

The Canadian stamp features a pair of mallards painted by internationally respected wildlife artist Robert Bateman.

America, Canada Sign Salmon Treaty

The United States and Canada have signed an ambitious new pact to cooperate in managing West Coast salmon, but "the work is just beginning," said Billie Frank, chairman of the Northwest Indian Fisheries Commission and a leading advocate of the treaty. "More than ever, we must understand each other's viewpoint."

The treaty, which took more than a decade to negotiate, nearly foundered several times over disagreements between U.S. fishing groups. But in the end, most hailed it as a crucial tool for conserving shared salmon stocks up and down the West Coast.

The treaty restricts the two nations' harvest of one another's fish and curbs the total catch of dwindling chinook [illegible] salmon stocks. It also establishes the Salmon Commission, [illegible] ment authority empow[illegible] ing throughout the salm[illegible] tory range.

If all goes well, the United States and Canada will release more than $400 million previously allocated for salmon breeding and habitat enhancement. That money has been bottled up for years because each nation feared the other would reap the benefits of its investment. —*Brad Templeton*

not be available until sometime in 1986. This means that the duck hunting regulations for the 1985-86 season will have to be formulated without the benefit of a full analysis of the study.

Bay Shellfish Reach Brink of Disaster

Researchers at the McCollum-Pratt Institute and Johns Hopkins University have revealed a potentially catastrophic condition in the northern Chesapeake Bay that may have disastrous consequences for the bay's marine life, especially shellfish.

Last year, climatic conditions combined to create a severe condition of anoxia, or lack of oxygen, in the bay's waters below a depth of 16 feet. Anoxia "occurs annually in summer in the Chesapeake Bay," say the researchers, H.H. Steller, J.A. Boggs and W.H. Biggley. The magnitudes and areas involved, however, have increased over the past decades.

In 1984, the dissolved oxygen content in bottom waters decreased to zero more than two months earlier than in previous wet years, they reported.

A survey last September of oyster beds in the Choptank River revealed mortality of all the shellfish on beds more than 20 feet under the surface.

States Impose New Nontoxic Shot Zones

Millions of ducks, geese and other birds, including bald eagles, die from lead poisoning each year after ingesting spent lead shot.

To stop this waste, state wildlife agencies are imposing nontoxic shot zones where hunters may use only steel shot. Recently, Nebraska and Iowa passed statewide bans on lead shot for certain kinds of hunting. Kansas is phasing in a statewide ban, and other states are broadening their steel shot zones.

Most sportsmen seem supportive of the new rules. In the past five years, there's been "a big turnaround" in hunters' opinions about steel shot, as they recognize the seriousness of the lead poisoning problem, in waterfowl and as misinformation about steel shot and its effects is dispelled, says Allen Farris, Iowa's Fish and Game chief. —*Chris Wille*

Other States Get Indiana Steelhead

Indiana's critical brood stock of Skamania, an ocean-run, tough type of steelhead, yielded more than a million healthy eggs early this spring. This enabled Indiana Department of Natural Resources officials to spread the much-desired strain more widely throughout the Great Lakes.

Last August, Wisconsin and Michigan received about 500 breeding fish from Indiana. Survival was excellent, and egg-takings yielded about 4500 eggs per female. —*Al Sperry*

Mallard, Pintail Limits May Be Cut

The 1984 population levels of mallards and pintails were about the lowest in 30 years. The numbers of these two species have dropped significantly during the last few years, primarily as a result of several successive years of drought in the vital duck nesting areas of the Canadian prairie, as well as habitat loss. Because of this, the U.S. Fish and Wildlife Service (FWS) is considering a decrease in this fall's harvest of the two species.

The FWS contemplated reducing the allowable harvest during the 1984-85 season, but instead stuck with its five-year study of "stabilized" regulations, a cooperative project between the United States and Canada to study the relationship between duck populations and duck harvests. The 1984-85 duck harvest was the last season under the program of stabilized regulations, though a final evaluation of the project will

Congress Approves Wildlife Foundation

Early this year, Congress established the National Fish and Wildlife Foundation. The foundation is a charitable, nonprofit corporation to encourage and administer donations of real or personal property in connection with U.S. Fish and Wildlife Service conservation programs.

However, U.S. Fish and Wildlife Service spokesmen apparently deliberately failed to report that the foundation was conceived and passed into law through the efforts of two federal government employees. Theodore Gianuzzo of the Department of Interior and his wife, Françoise, of the Office of Personnel Management. The couple made the first donation to the foundation with a check for $5000, and rewrote their wills so that their entire estate will eventually go to the FWS. SA

Attachment # 10

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any Person In Government Service Should:

Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

Uphold the Constitution, laws, and legal regulations of the United States and all governments therein and never be a party to their evasion.

Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

Seek to find and employ more efficient and economical ways of getting tasks accomplished.

Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

Expose corruption wherever discovered.

Uphold these principles, ever conscious that public office is a public trust.

(This Code of Ethics was agreed to by the House of Representatives and the Senate as House Concurrent Resolution 175 in the Second Session of the 85th Congress. The Code applies to all Government Employees and Office Holders.)

CSC FORM 722
AUGUST 1963

American Recreation Coalition

Dedicated to the protection and enhancement of every citizen's right to pursue health and happiness through leisure-time activities.

July 16, 1985

The Honorable Robert Stafford, Chairman
Committee on Environment and Public Works
United States Senate
Washington, D. C. 20510

Dear Senator Stafford:

We are writing to express our support for the nomination of Bill Horn to serve as the Assistant Secretary of the Interior for Fish, Wildlife and Parks. We believe that Bill Horn combines the energies, the creativity and the commitment to wise natural resource management necessary to serve with distinction in this important post.

We are especially pleased by the openness and ready availability Mr. Horn has demonstrated in his past roles at Interior. He has expressed to us his commitment to continuing these practices and to working toward more harmonious relations among all those who love our outdoors.

We ask that our letter of endorsement be made a part of the hearing record on this nomination and that his nomination be acted upon by your committee swiftly and favorably.

Sincerely,

Derrick A. Crandall
President

DAC/epw

Suite 700 • 1915 Eye Street, NW • Washington, D.C. 20006 • (202) 466-6870

STATEMENT OF WES HAYDEN, LEGISLATIVE COUNSEL,
INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES,
FOR RECORD OF HEARINGS BY SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE
ON NOMINATION OF WILLIAM P. HORN TO BE ASSISTANT SECRETARY OF INTERIOR
FOR FISH, WILDLIFE ANND PARKS, JULY 24, 1985

Mr. Chairman: Thank you for the opportunity of submitting this statement on behalf of the International Association of Fish and Wildlife Agencies to convey our assessment of the nomination of William P. Horn to be Assistant Secretary of Interior for Fish, Wildlife and Parks.

As an organization committed to the cause of sound and balanced resource conservation and management, we attach vital importance to the assignment of responsibilities for the position to someone with a philosophy compatible with that mission as well as possessed of the administrative skills, leadership traits and experience needed to implement it effectively.

Selection of such an individual is, in our view, totally essential to insure a proper working relationship between state and federal interests in shared management of fish and wildlife species and their habitats.

For that reason we studied with care and interest the appointment before you today.

And we have concluded that Bill Horn meets those criteria.

In the first place he brings to the position an impressive and varied list of credentials combining a background of Congressional staff work, with the Interior Department under three Secretaries--Watt, Clark and Hodel--and demonstrated skills in the handling of highly sensitive fishing rights issues both in Alaska and in the Great Lakes area where he now chairs the Great Lakes Fisheries Commission.

His record of success has been consistent in each of those areas of activity, and that alone commends his favorable consideration.

But our assessment goes beyond the record to a judgment of the individual as well.

It is based on our first-hand observations during a recent briefing session in which he participated with representatives of the conservation community, including the IAFWA.

He demonstrated clearly there the knowledge, understanding and sensitivity to the broad range of issues which are of the greatest significance to the fish and game agencies which make up the Association's membership and which are crucial to success for resource conservation and management efforts.

Based on those observations and other evidence of his objectivity and his determination to develop and maintain close working ties between state and federal agencies, particularly through the Fish and Wildlife Service, this Association and its members fully support Mr. Horn's nomination and urge that he be recommended for confirmation. We will look forward to working cooperatively with him thereafter toward resolution of those issues in which we have a common bond and interest.

Meanwhile, your attention and consideration of our views are appreciated.

THE WILDERNESS SOCIETY

STATEMENT OF SUSAN ALEXANDER, ALASKA REGIONAL DIRECTOR, THE WILDERNESS SOCIETY, REGARDING THE PROPOSED CONFIRMATION OF WILLIAM P. HORN, FOR ASSISTANT SECRETARY, FISH AND WILDLIFE AND PARKS, U. S. DEPARTMENT OF THE INTERIOR,BEFORE THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, JULY 24, 1985.

Mr. Chairman, I am Susan Alexander, Alaska Regional Director for The Wilderness Society, an organization with over 140,000 members nationwide. This year the Society is celebrating 50 years of commitment to the preservation of wilderness and the wise management of all federal lands.

I have come here from Alaska to present the views of The Wilderness Society on the nomination of Mr. William P. Horn to be Assistant Secretary, Fish and Wildlife and Parks. Because Mr. Horn has been employed during the past four years by the Department, his record and policy orientation are known to us. That record, beginning with the administration of former Secretary James Watt, fails to demonstrate a commitment either to the proper conservation goals of the Department of Interior or to the often declared "balance" Mr. Horn claims to represent. That record is now part of the conservation record of the Reagan Administration.

As a Deputy Under Secretary, Mr. Horn primarily has been responsible for Alaska issues in the Department, specifically the implementation of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA). In that regard, Mr. Horn has been a

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consistent presence and advocate for the development-over-all policy orientation that has come to characterize the administrations of Mssrs. Watt and Clark and now is beginning to become more visible in the administration of Mr. Hodel. That apparently unchanging pattern is notable in its attempts to undermine the conservation intent and even, in some instance, the express mandates of ANILCA. The Wilderness Society published an account of these actions in The Watt/Clark Record: Alaska published last year. With, unfortunately, few exceptions that report remains current and I request that it be included in the Committee's Hearing record.

I would like to provide a brief review of some of the more troubling actions by the Department in which Mr. Horn has been involved. These examples evidence the continuing one-sided approach to the implementation of ANILCA taken by this Administration. As a summary of the direction taken by the Administration in overall implementation of that Act, the following statement by former Senator Paul Tsongas, a major author of that legislation, best describes the situation:

> It appears that the Secretary's [Watt's] every move is designed to overturn the conservation-development scales so carefully balanced by the Congress [in ANILCA]. Under the guise of implementing the law, the Secretary is, in fact, undoing the law. Through calculated use of the budget, selective enforcement of some provisions of the act but no enforcement of others, and by suspect interpretations of statutory provisions - the Alaska National Interest Lands Conservation Act is being transformed into the Alaska National Interest Lands Development Act. [Congressional Record, June 9, 1982, p. S6471]

POLICY DIRECTION

On March 12, 1981, Secretary Watt issued eight policy directives to modify past implementation of ANILCA. Mr. Horn's involvement in the drafting of these directives, given Mr. Watt's lack of experience on Alaska matters early in his Administration, was substantial. One of those directives designated the U.S. Geological Survey, rather than the U.S. Fish and Wildlife Service, as the lead agency for the coastal plain special study area in the Arctic National Wildlife Refuge (the so-called 1002 study area). Simultaneously, the directive shortened the time available for the initial baseline study and report from the allowed 18 months to 12 months. The directive specified that "Work is to begin immediately on drafting the exploration regulations [that is, before any baseline information was available]."

That directive would have placed primary responsibility for the overall study, including the specialized wildlife and habitat studies with an agency ill-prepared to conduct the research or to make decisions based upon such studies. The legislative history of ANILCA shows that Congress intended the FWS to retain full responsibility for protecting the fish and wildlife, habitat and other special values of that refuge, and all other Alaska refuges. An exchange between Senator Gaylord Nelson and Senator Henry Jackson on this topic occurred during the floor discussions intended to form the basic legislative history for the Act:

> MR. NELSON: [Is] it your intent that the Fish and Wildlife Service have the lead within the Department of the Interior in designing the criteria and guidelines to protect caribou, other wildlife and their habitat [?]. Of course, other

> agencies would also be involved and consulted, but it seems to me appropriate that the FWS play the key role in this program. Does the Senator agree?
>
> MR. JACKSON: Yes, I believe it is appropriate for the FWS to have the lead responsibility for developing the wildlife protection stipulations in coordination with the appropriate offices of the Interior Department.

On November 2, 1981, a U.S. District Court ruled that Watt had overstepped his authority in issuing the directive. The Court stated that the directive was "in excess of the statutory authority under the Alaska National Interest Lands Conservation Act of 1980, and the National Wildlife Refuge System Administration Act." The decision went on to declare that "adequate time to carry out the law's requirements" shall be provided. The court also set aside the assumptions and environmental statement outline that USGS had prepared.

However, the reversal of the directive did not ensure careful exploration activity. Poor enforcement and the suspect waiver of environmental stipulations, such as the snow depth required to properly protect the fragile tundra, have resulted in unnecessary and unsightly damage. The long range damage to permafrost, soils and vegetation has yet to be fully assessed.

<u>The Watt/Clark Record</u> that I have submitted documents that series of actions and others pertaining to the National Wildlife Refuges in Alaska. The clear conclusion from a reading of that record is that Mr. Horn has participated in a one-sided interpretation and implementation of the law.

LAND EXCHANGES

Despite a recent court decision, the Interior Department in which Mr. Horn has served continues to use ANILCA's land exchange provision (section 1302) in violation of Congressional intent--and even in violation of the law. Through this "innovative use" of the exchange provisions, vital park and refuge acreage could be lost. The result will be development that, but for the exchange, would be prohibited by the Act as inappropriate and deleterious to conservation system units because it threatens their integrity.

The most egregious example is an exchange that we understand Mr. Horn played a major role in arranging: the St. Matthew Island exchange. This proposed land exchange would have allowed designated wilderness lands on a remote national wildlife refuge island to be traded away to allow the construction of runways, warehouses and other facilities to support offshore oil and gas exploration. At the end of last year, an Alaska District Court struck down the exchange as a violation of law. The Department had maintained that though the values of the tracts to be exchanged were unequal (in favor of the development interests), the exchange was legal because it was "in the public interest." The Court, however, disagreed, saying that the Fish and Wildlife Service had clearly erred in their evaluation of the damage to the refuge that would occur and, consequently erred in their public interest determination.

By its decision, the Court affirmed that land exchanges are to provide better resource protection by getting inholdings out of conservation units, not to create new inholdings and new

opportunities for development. Despite this sharp repudiation of Interior Department policy, efforts are still underway to execute similar illegal land exchanges in such pristine areas as the Arctic National Wildlife Refuge.

WILDERNESS POLICY

During Mr. Horn's tenure, the Department of Interior has tried at least twice to minimize the amount of land in Alaska to be added to the National Wilderness Preservation System. One such effort is documented in a formal policy directive from the Director of the Fish and Wildlife Service to the Alaska Regional Director. Its purpose is to limit the lands to be recommended for wilderness designation to those that were "inadvertently overlooked by Congress" in ANILCA and to lands needed to correct boundaries. This is inconsistent with the Alaska Lands Act which calls for a thorough and comprehensive wilderness review of all park and refuge lands with the clear intent that considerably more acreage should be designated as wilderness. In fact, the main proponents for the further wilderness study provisions in the Act argued that the studies were needed because adequate review had not taken place.

On March 12, 1981, then Secretary James Watt issued a policy directive prohibiting the Bureau of Land Management (BLM) from undertaking any "further wilderness inventory, review, study, or consideration...in Alaska, except in those areas where study is mandated in legislation." Unlike parks and refuges, the Alaska Lands Act did not mandate wilderness study for BLM lands, but, rather, left it to the discretion of the Secretary. The Watt directive has not been repealed. Hence even the areas Congress

found worthy of special protection--the White Mountains National Recreation and Steese National Conservation Areas--have not been examined for their wilderness suitability. The planning process is the appropriate time for such a review, but the management plans have been finalized without consideration of the important management tool wilderness represents.

The administration's record on the implementation of the Alaska Lands Act is a dismal one that has been referred to as "misimplementation." Because Mr. Horn was officially in the role of policy advisor, rather than line officer, it is difficult to find evidence of his participation in many of the decisions cited. However as the individual considered responsible for and most knowledgeable about Alaska, it is even more difficult to imagine that he did not play a critical role in the formulation of what we consider misdirected policies. We ask that the Committee carefully question Mr. Horn on the important Alaska policies established during his tenure to determine his role in formulating those policies. We would also suggest that the Committee determine whether or not Mr. Horn opposed or disagreed with any of those policy decisions. At this point, only Congress can ensure that the Alaska National Interest Lands Conservation Act is set back on its proper course. The Alaska record bodes ill for the rest of the nation's parks and refuges that will now come under Mr. Horn's aegis. Therefore The Wilderness Society urges the Committee to oppose Mr. Horn's nomination.

THE WILDLIFE LEGISLATIVE FUND OF AMERICA
To protect the Heritage of the American Sportsman to hunt, to fish and to trap.

1612 K Street, N.W.
Suite 1101
Washington, D.C. 20006
202 466-4407

STATEMENT IN SUPPORT OF WILLIAM P. HORN

to be

ASSISTANT SECRETARY FOR FISH AND WILDLIFE
AND PARKS

UNITED STATES DEPARTMENT OF THE INTERIOR

Submitted to

ENVIRONMENT AND PUBLIC WORKS COMMITTEE
United States Senate

BY

THE WILDLIFE LEGISLATIVE FUND OF AMERICA

July 24, 1985

Washington, D. C.

The Wildlife Legislative Fund of America is a non-profit organization which protects the heritage of American sportsmen to hunt, fish and trap and protects scientific wildlife management practices by providing legislative lobbying and legal defense services. It is an association of sportsmen's and other conservation organizations at the national, state and local levels. These range from Ducks Unlimited, whose members raise and spend over $40 million annually to acquire and maintain North American Waterfowl habitat, to local rod and gun clubs. Through these organizations, WLFA represents the interests of an aggregate membership of over 750,000 conservation-minded Americans.

The Wildlife Legisaltive Fund supports the nomination of William P. Horn to be the next Assistant Secretary for Fish and Wildlife and Parks in the Department of the Interior. Mr. Horn's knowledge and experience make him an excellent choice for that position.

He has a great appreciation for the out-of-doors, born of his experiences as a hunter and fisherman. As Deputy Under Secretary of the Department of the Interior, Mr. Horn became well-known for his commitment to the enhancement of our wildlife resources. His achievements have demonstrated his skills, dedication, and cooperative spirit.

The Wildlife Legislative Fund strongly supports Bill Horn's nomination. We urge the members of this committee and the U.S. Senate to confirm Mr. Horn's nomination to be the next Assistant Secretary for Fish and Wildlife and Parks.

Senator STAFFORD. The committee will now revert to Mr. Porter's nomination.

Mr. Porter, if you will come to the witness table.

We are pleased that our colleague from the House, Congressman Wolf, is able to be with us this morning following Senator Warner's appearance here a little earlier. Congressman, we'd be very pleased to hear from you.

STATEMENT OF HON. FRANK R. WOLF, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF VIRGINIA

Mr. WOLF. Thank you, Senator. I'll be very brief, and I appreciate you giving me this opportunity.

Mr. Chairman, it's a great pleasure to introduce to you and the other distinguished members of this committee, Dr. J. Winston Porter, the President's nominee to the position of Assistant Administrator for Solid Waste and Emergency Response.

I have known Dr. Porter for many years and I believe he is eminently qualified for this position. Beside Dr. Porter's extensive professional background in the environment, energy resources and regional planning, he has exhibited exceptional managerial skills in these and other fields.

Dr. Porter's background in the environment and energy resources is extensive and impressive. Prior to his present position as a consultant to the Environmental Protection Agency, Dr. Porter was the principal in the management and engineering consulting firm of J.W. Porter & Associates in Leesburg, VA, which is located in my congressional district. His practice included planning related to hazardous waste control, energy and environmental analyses, market surveys, and personnel and business planning projects in the Middle East. He was also involved in the planning and management of major environmental/permitting programs for several industrial projects.

Dr. Porter has served as vice president of International Bechtel, Inc., responsible for the master plan of the multibillion dollar Jubail industrial city in Saudi Arabia. He directed teams in Riyadh, Beirut and San Francisco in preparing a detailed plan for the entire infrastructure.

Dr. Porter received a B.S. and Ph.D. in chemical engineering and is a registered professional engineer in California, Texas and my State of Virginia. He is a member of the American Institute of Chemical Engineers and was formerly director of the environmental division. He is also a member of the American Chemical Society, the Water Pollution Control Federation, and is listed in American Men and Women of Science.

I have just touched on some of Dr. Porter's contributions to science and to mankind that will make us all proud to have him serve as Assistant Administrator of Solid Waste and Emergency Response. I speak highly of Dr. Porter, not only because of his professional credentials, but because he is a respected community leader and an outstanding citizen. I can personally testify to his personal character and integrity, which will serve him well at EPA.

Senator, that's the close of my statement. This is a tough job; frankly, it's a job that I wouldn't want, even if they appointed me to it. But I think that Win can do the job, and I think he's a very, very capable person and I think we're fortunate to have him. And I thank you for the opportunity to testify.

Senator STAFFORD. Well, thank you very much, Congressman Wolf. We know of your own excellent reputation and what you tell us will bear weight with this committee in considering Mr. Porter's nomination.

Mr. WOLF. Thank you, Senator.

Senator STAFFORD. Mr. Porter, after you have finished your statement and are prepared to respond to questions, there is one matter which I would like you to address first, and you might be thinking about it in the meantime: That is whether the agency can and will be in a position to continue the Superfund Program on an enforcement-only basis, should the Congress fail to renew the tax before its expiration on September 30.

Two-thirds of the Members of the Senate want Superfund considered on the Senate floor prior to the August recess. They have communicated this desire to the Senate leadership. I personally remain hopeful that we can consider an extension of the program within the next week and 2 days. I shall be, I will say, bitterly disappointed if we are not able to do that.

Three committees of the Senate have finished their work with respect to the legislation respecting Superfund, and there is no disagreement between the three committees, who have had sequential referral. Indeed, it appears that for Senator Thurmond and myself, I shall be offering such amendments as the Judiciary Committee has prepared, so there is really no reason at all for this bill not to be considered by the Senate in the remaining 7 legislative days, and my distress and disappointment will be extreme if it isn't.

But I am also one who believes in preparing for alternatives, however undesirable they might be. Preparing for the worst does not mean that we are reconciled to that as an inevitable outcome. It is, however, the action which a prudent person takes.

This Senator is convinced that the Superfund program can continue to operate, even if the tax expires on September 30. I assume, however, that to accomplish this would require some advance planning. What I would like to hear from you after your statement is what kind of planning you will undertake to keep the program moving even if the tax expires on the 30th of September.

Having said that, I would now be pleased to receive your statement as you have submitted it in writing or summarized, however you want to do it.

STATEMENT OF J. WINSTON PORTER, NOMINEE TO BE ASSISTANT ADMINISTRATOR FOR SOLID WASTE AND EMERGENCY RESPONSE, ENVIRONMENTAL PROTECTION AGENCY

Dr. PORTER. Thank you, Mr. Chairman. I am pleased to be here this morning as President Reagan's nominee for the position of Assistant Administrator in the EPA, responsible for the Hazardous Waste Program. In this position, as you know, I would be adminis-

tering the Resource Conservation and Recovery Act, or RCRA, as well as the Superfund program.

At the outset, I want to assure you that I am fully committed to implementing these two statutes. In my remarks today I also hope to convince you that I am well qualified for the job, that I have a sincere desire to work with this committee, and that I'm very enthusiastic about taking on these responsibilities.

By training, I am a chemical engineer with a bachelor's degree from the University of Texas and a Ph.D. from the University of California at Berkeley. I am a registered professional engineer in California, Texas, and Virginia.

Most of my 20-year career has been spent in various technical and managerial positions related to environmental engineering. From 1966 to 1976 I was associated with the Bechtel organization. I served as manager of Bechtel's environmental department in San Francisco, and later as a vice president of two Bechtel subsidiaries in Saudi Arabia.

From 1976 until May of this year, I had an independent consulting practice. I provided management consulting services to both domestic and international clients in the environmental, energy, and marketing areas. As a result of my consulting activities and prior employment, I have recused myself from any activities related to either Bechtel or the FMC Corp.

Let me now, if I might, turn briefly to some initial thoughts I have on the RCRA and Superfund Programs.

With the RCRA amendments of 1984, a comprehensive program is in place, as you know, to oversee the Nation's hazardous waste management system. Among other things, I believe this program presents the following challenges, which I'd like to comment on briefly.

First, RCRA land disposal facilities presently in interim status must certify compliance with ground water monitoring and other provisions by November 8 of this year. Those failing to provide certification must close. My duty will be to ensure compliance with these provisions.

Second, the new RCRA law contains a clear bias against land disposal of hazardous waste. It imposes a strict timetable on EPA for deciding whether land disposal of specific waste streams poses undue risks. I will work diligently to meet these and other RCRA deadlines, while seeking to avoid serious losses in the country's hazardous waste management system.

Finally, the RCRA amendments also greatly expanded the size of the regulated community. As you know, we now have several hundred thousand small quantity generators, and several million owners and operators of underground storage tanks who are covered by the regulations for the first time. My objective will be to ensure that these new members know and understand the regulations and that they comply with them.

Let me turn now briefly to the Superfund Program. I have a couple of thoughts on that.

This program, as you know, has steadily gained momentum under Lee Thomas' direction. More than 800 sites have been identified as national priority list sites requiring cleanup. Remedial activities have begun at over 400 sites. In addition, the EPA has used

the Emergency Response Authority under the statute to conduct over 500 short-term cleanup activities.

Based on my preliminary review of the Superfund Program, I have, again, a couple of observations I'd like to make.

First, I believe the basic organizational and regulatory framework is sound; however, I do intend to investigate a number of areas where I think we can make some improvements.

The first of these is that I believe the remedial studies required at the Superfund sites can be streamlined somewhat. These are critical because they come up first, before we can do much cleanup at the site.

No. 2, and in a broader vein, I also intend to take a very thorough look at the overall length of time it takes to clean up sites. Current procedures, as you know, involve the use of several contractors or organizations at various steps of the way as we go through the various phases. From my project management experience, I believe we should take a hard look at placing more responsibility in fewer organizations so we can, (A), speed up the process, hopefully, and (B), place accountability more clearly in fewer organizations.

Third, I intend to push very hard for more private party cleanups through our enforcement procedures. In this regard, I fully support the statutory goal of ensuring that those who are responsible pay for the cleanup.

Finally, and I think a point that maybe we don't talk about quite enough, is that the Superfund and RCRA programs are increasingly converging. We're finding more and more things that are common between the two programs. For example, wastes from Superfund sites are often taken to RCRA-regulated facilities. In addition, the corrective action provisions of the RCRA amendments give EPA authorities which are fairly similar to the Superfund authorities, in some cases.

Consistency in implementing these two goals is imperative. I really see this as one of our major goals. We must ensure that the RCRA and Superfund Programs, taken together, serve as an overall hazardous waste management system for the country. We have to look backward, we have to look to today, and we have to look forward.

It is clear, Mr. Chairman, that the EPA has a tremendous amount of work to accomplish under these programs. I have looked around and met people in both headquarters and the regions, and I must say, I'm very impressed with the quality of the people and their very strong desire to move ahead. As you know, we also have a very strong and capable Administrator in Lee Thomas, and I will be working very closely with Lee to discharge these responsibilities.

In closing, Mr. Chairman, I want to assure you and the other committee members that I want to pledge my total commitment to the protection of human health and the environment. I also want to pledge to you my strong desire to work with this committee and others in Congress as we move forward on this.

Mr. Chairman, I appreciate the opportunity to be here today and I will look forward to responding to your questions,

Senator STAFFORD. All right, thank you very much, Mr. Porter.

You heard what I had to say in the opening statement about operating Superfund even if the tax which provides the money to operate it should terminate, even for a brief time, on September 30. Could you reply to that, if possible?

Dr. PORTER. Yes, sir. I'd like to approach this a little bit broadly, if I might.

Senator STAFFORD. All right.

Dr. PORTER. It seems to me that we have a real dichotomy coming up here. On the one hand, we have a foot on the accelerator in the sense of saying we want to escalate the rate of cleanup. Our program had intended to move from roughly $600 million a year to $900 million a year in fiscal year 1986; we're now beginning to have one foot sort of creep up on the brake in the sense of wondering, over the next month or two, whether we should be accelerating or applying the brakes.

So we are beginning—and Lee Thomas and I have talked about this at some length the last few days—what we are doing is doing a great deal of contingency planning, everything from what might be called the zero option, which is the one I think you refer to where we have essentially no new money come October 1 of this year, to things up to and including the various options considered in Congress.

It's certainly fair to say that there will be a severe disruption of the program if we do not have a bill on October 1. These are multiyear programs; most of the projects we're involved with take a number of years to complete, and if we're planning on a month-to-month basis or a quarter-to-quarter basis, or even a year-to-year basis, it's very hard to execute 2- and 3- and 4-year cleanups. So I think that's sort of point No. 1 that I'd like to make; it will be very disruptive.

No. 2, and being somewhat more specific, we have looked at what's called a bare bones case which would be to continue moving, on October 1, on a reasonably broad front, not to have any substantial layoffs of personnel that we have to then try to bring back later, not to have—removing key contractors and so forth, but keeping moving at sort of roughly one-half the current pace in terms of dollars, something on the $200 million to $300 million range. This program would involve a very heavy emphasis on enforcement. It would, in fact, though, keep moving in a number of areas.

One thing Lee has asked me to convey to you, if I might, is that he believes strongly that we have to continue the short-term removals and emergency actions if at all possible. It's simply not totally negotiable to say that we cannot clean up things which create an imminent public health endangerment, so I think we want to look at the immediate hazard kind of situations. We want to push very hard at enforcement, and I think the answer is "Yes," at a very reduced level, we could continue. It's obviously a very poor alternative, in my judgment.

Senator STAFFORD. Thank you, Mr. Porter.

Are you prepared, at the request of any committee of the Congress, to appear in front of it as a witness?

Dr. PORTER. Yes, I am.

Senator STAFFORD. Do you have any continuing connection or any past connection or any possible future business connection, or do you own any properties, that might place you in a conflict of interest position if confirmed in this position?

Dr. PORTER. No, Mr. Chairman, I do not.

Senator STAFFORD. All right.

I've asked you to begin planning to operate Superfund on an enforcement-only basis effective October 1, if, tragically, the Congress fails to extend the law's tax. Would you also provide the committee with an estimate of how much money should be appropriated to EPA to enable you to achieve this goal? I'm asking for this information in order to make recommendations to the Appropriations Committee, so I would appreciate a response by the close of business tomorrow, if that's at all possible. Again, I'd like to emphasize that this should be funds only for an enforcement program, not for Government cleanup. Can you do that by tomorrow, close of business?

Dr. PORTER. Yes, Mr. Chairman.

I would add that it's going to be somewhat difficult, in my judgment to talk strictly about enforcement. Do you mean in the sense of not looking at short-term cleanups or anything of that nature?

Senator STAFFORD. Looking at enforcement only.

Dr. PORTER. OK. We'll take a look at that.

[Information requested follows:]

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

August 19, 1985

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

Honorable Robert T. Stafford
Chairman
Committee on Environment
and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

At my confirmation hearing, you requested that I provide information regarding the funding needed to support an "enforcement only" Superfund program.

In accordance with a later discussion between you and Lee Thomas, it was agreed that Lee would submit a fuller explanation of this subject. His letter was sent to you on August 1, 1985. A copy is also transmitted herewith for the record.

Sincerely,

J. Winston Porter

J. Winston Porter
Assistant Administrator

Attachment

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

August 1, 1985

THE ADMINISTRATOR

Honorable Robert T. Stafford
Chairman
Committee on Environment
and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to a question you posed to Dr. J. Winston Porter during his confirmation hearing before your committee July 24. It concerns the funding required to run an enforcement-only Superfund program. Additionally, I have been asked by Congressman John Dingell, Chairman of the House Committee on Energy and Commerce, to explain the impact on the program should the Congress fail to reauthorize Superfund at all, or for only a limited period of time. This letter addresses each of these concerns.

Superfund must remain a total program. Enforcement alone is not enough. To succeed, we must have an effective emergency response program capable of addressing immediate hazards to public health and the environment. We must have adequate funding to assure cleanup of those sites posing long-term threats. Use of these two cleanup authorities whenever necessary is the foundation for an effective enforcement program. Without them, our enforcement presence will be drastically diminished.

I am gravely concerned about the future of the Superfund program. Failure to pass a five-year reauthorization similar to the proposal offered by the Administration in January, prior to the expiration of the existing taxing provision on September 30, 1985, will cause tremedous disruption in the program within a short period of time. Stop-gap funding measures or a one-year reauthorization will cripple the momentum we have established during the past two and one-half years.

During the past five years, we have worked hard to develop an effective cleanup program capable of responding to both emergency situations and chronic hazards. Because cleanup of national priority sites takes several years to complete, we have established a pipeline of major projects in various stages of development. The pipeline is now full. Some projects are in the engineering phase. At others, we have chosen and are designing a remedy. At still others, actual construction is underway.

It is critical that we have an assured source of funds during the next five years to guarantee that this cleanup momentum continues. Without it, the pipeline will slow to a trickle. Long-term cleanup of major sites requires long-term planning and assured funding.

The consequences of a failure to pass a five-year reauthorization of Superfund will be readily apparent. Damage to the program will be almost immediately disruptive and potentially long-lasting. Yet these are the prospects we face.

Given the current status of Superfund on Capitol Hill, and the possibility that it will not be reauthorized by September 30, I am confronted with limited choices. I can continue to operate the program assuming that it will be extended in a timely fashion. Or, I can ease the program into a slowdown in hopes of minimizing the damage. The consequences of playing brinksmanship are unacceptable to me. I feel I must choose the latter option.

During the next several weeks, I will begin to implement a slowdown of the cleanup program. We face the bleak prospect of slowing or halting cleanup work at many sites nationwide. My staff is currently compiling a list of sites which are now in the pipeline awaiting normal contractual commitments. These are the sites where work will cease first. As we move into fiscal year 1986, more sites will be affected. Once the list is completed, I will provide you with a copy.

In addition, I will place a moratorium on new hiring for Superfund, reduce our support contracts, and limit all other work not directly related to emergency response activities.

51-578 O—85——5

These actions are dramatic. Yet it is necessary to ensure that there will be sufficient funds remaining to carry on critical functions as we enter fiscal year 1986. We must keep our emergency response capability intact. We must also maintain the cadre of experienced and dedicated professionals that are the very heart of our Superfund program. It has taken years to develop an infrastructure of trained staff, reliable contractors, and adequate laboratory services. We now have an effective relationship with state agencies as well as the public's trust in our ability to get the job done.

As you requested, I am enclosing an analysis of the costs to run the Superfund enforcement-only program. I have also included my projection of additional resources needed to fund a continued emergency cleanup program as part of a plan to phase down the rest of the Superfund effort. I emphasize, however, this is not a solution to the Superfund reauthorization problem.

Superfund is not a short-term program that lends itself to short-term fixes. It is a long-term program that must have a long-term funding commitment. A one-year reauthorization is not good enough for Superfund. The continuity of a five-year reauthorization is essential.

The nation has made a tremendous emotional and financial investment in Superfund. One that must be respected. I urge you to work with your colleagues in the Senate and the House to complete reauthorization of this vital program as soon as possible.

Sincerely,

Lee M. Thomas

7/31/85

Cost of an Enforcement-Only Superfund Program

1. The basic question is what would be the cost of an enforcement-only Superfund program. The answer requires a number of assumptions; thus the answer is developed in three parts:

   I. Phase down the non-enforcement, non-removal portion of the budget. The following data is based on an analysis of each major program activity in Superfund.

      a. Assumptions:

         - The phasedown will be orderly and will take most of FY 86 to accomplish.

         - Non-enforcement, non-removal employees will be released at the end of FY 86.

      b. Computation:

$59 Million	Non-enforcement, non-removal contract needs during the phasedown period - primarily finishing off remedial work at various sites.
+52 Million	Costs for personnel and personnel support activities.
+12 Million	Termination costs for about 800 non-enforcement, non-removal employees.
+ 5 Million	Termination costs for various contracts.
$128 Million	Total

   II. Maintain the removal program. It is assumed that the removal program as established in the President's budget request is the basic program needed to respond to emergencies. The total is $94 million which includes 150 workyears and $86 million for contracts.

III. Maintain an effective enforcement program. While it could be argued that an enforcement-only program would be significantly larger than the enforcement component of the planned comprehensive Superfund program, we do not believe this would be so, at least in FY 86.

- During the phasedown, we would have to concentrate on closing up the current phase of the project at Fund-Lead sites.

- The current enforcement component of the planned comprehensive Superfund program envisioned maximum use of enforcement authorities.

Thus, we would identify the cost of an effective enforcement program as that identified in the President's budget request. This total is $72 million which includes 690 workyears and $40 million for contracts.

2. To recap our three parts, the phasedown is $128 million, removals are $94 million, and enforcement is $72 million, for a total of $294 million.

Superfund Reauthorization Contingency Plan Findings

Contingency planning for Superfund reauthorization investigated three basic questions:

1) What funding will be available in 1986 if taxes are not reauthorized?

2) What amount of resources will be needed to fund a minimal program in 1986?

3) What actions can the Agency take to ensure that the program can operate as long as possible in FY 1986?

Available FY 1986 Funding

- The revenues generated through the first five years of the Fund will be fully obligated if we allow the program to obligate the full amount of funding appropriated through 1985.

- Additional revenues of approximately $60 million from interest, cost recovery and residual taxes can be expected in FY 1986 even without reauthorization. This funding, however, will not be immediately available in 1986 but will gradually accumulate throughout the year.

Minimal Program Needs

- Approximately $340 million will be needed to continue a minimal program in 1986.

  - This total assumes that the basic structure of the program will remain intact so that the program can come back to full program capability as quickly as possible.

  - This minimal program would continue the removal program, maintain support contract capability, freeze hiring, delete funding for contracts that are not directly site-related, reduce new RI/FS starts, and fund no new or ongoing remedial design or construction work.

Agency Actions to Increase Available Funding in FY 1986

- The only method by which the Agency could ensure that a significant amount of funding would be available for Agency use in FY 1986 is to limit 1985 obligations in August and September for remedial designs and constructions. This action would carryover approximately $114 million for 1986 use.

- Other Agency actions, including deobligations of prior year funds, could yield up to another $20-25 million.

- The Agency could not fully fund the minimal program needs of $342 million for a full year since available funding, even with a freeze on site obligations, only totals $180-190 million. At best, the Agency could operate at the minimal program level for about two quarters.

Senator STAFFORD. Mr. Porter, one of the adjustments which this Senator would like to see in the Superfund Program is greater reliance on enforcement for cleanup, as well as greater crispness in the decisionmaking process. Although responsible parties should be provided with a fair opportunity to settle their cases with the Government, it seems to this Senator that they should be given that chance early in the process, and only once. This would allow everybody to know early in the process who will be managing the cleanup, paying the bills, and so on. Parties who decline to participate should, almost without exception, be subject to suit. Would you agree with that?

Dr. PORTER. Yes; I believe you've got to be very stringent on the enforcement. I'm not sure, with my level of knowledge at this point, that I would say we would do it one and only one time, but in principle I agree that we need to be very crisp, we need to lay out the facts very clearly and try to find out very early in the game who is going to do the job and who is not.

Senator STAFFORD. All right.

Last year the Congress passed extensive amendments to RCRA, many of which included deadlines for agency action. Since the enactment of those amendments, we have heard that the agency may fail to meet some of them. Would you please review each of those deadlines and report to the committee in writing as to which you expect to meet? And, in cases where you will fail to meet, the approximate date by which you do expect to comply?

Dr. PORTER. Yes. I can submit that in writing, yes.

Senator STAFFORD. All right.

[Information requested follows:]

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

August 19, 1985

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

Honorable Robert T. Stafford
Chairman
Committee on Environment
and Public Works
United States Senate
Washingtn, D.C. 20510

Dear Mr. Chairman:

This is in response to a question you asked during my confirmation hearing of July 24, 1985. This question concerned the EPA's ability to meet the various deadlines imposed by the 1984 RCRA Amendments.

I have categorized the deadlines into the following three groupings in order to respond more adequately to your question:

- Group A - Regulations, Studies and Listings Which Are Currently On Schedule To Meet the Statutory Deadlines
- Group B - Regulations, Studies and Listings Which Are Currently Not On Schedule To Meet the Statutory Deadlines
- Group C - Permitting Actions

In the attachments to this letter each of the above groupings are discussed. These discussions are based on our understandings of the key issues at this time. As we acquire more experience in achieving the many RCRA deadlines, I will be happy to update the information provided.

I hope the attached information is helpful to you and the other Committee members.

Sincerely,

J. Winston Porter

J. Winston Porter
Assistant Administrator

Attachments

8/19/85

ATTACHMENT

GROUP A

REGULATIONS, STUDIES AND LISTINGS WHICH ARE CURRENTLY ON SCHEDULE TO MEET THE STATUTORY DEADLINES ARE AS FOLLOWS.

REGULATIONS	Statutory Deadlines
Small Quantity Generator (SQG) Rules	3/86
Underground Storage Tanks	
Petroleum (new)	2/87
Petroleum (existing)	2/87
Non-Petroleum (new)	8/87
Non petroleum (existing)	8/88
Notification Forms Underground Tanks	11/85
Banning Wastes Schedule	11/86
Dioxins and Solvents Land Disposal Ban	11/86
Banning Wastes - California List	7/87
Banning Wastes - first third	8/88
Banning Wastes - second third	6/89
Banning Wastes - final third	7/90
Burning and Blending	
Administrative Requirements	2/86
Technical Standards	11/86
Transporters Standards	11/86
Used Oil Recycled (Standards)	11/86
Proposed Listing	11/85
Final Listing	11/86
Domestic Sewage Regulations	8/87
Subtitle D Criteria	3/88
EP Toxicity	3/87
Additional Characteristics Organic Toxicity	11/86
Double Liner/Leachate Collection	11/86
Leak Detection	5/87
Vulnerable Hydrogeology	5/86
Delisting	11/86
Deep Well Injection	8/88
Review Wastes Disposed By Underground Injection	8/88
Variance from Retrofitting for Surface Impoundments	11/87

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GROUP A, CONTINUED

STUDIES

Inventory Underground Injection Wells	5/85
Waste Minimization	10/86
Extend Useful Life of Municipal Landfills	10/86
Uniform Manifest & S.Q.G.	4/87
S.Q.G. from Educational Institutions	4/87
Licensing Transporters of S.Q.G. Waste	4/87
Waste Lagoons	11/87
Domestic Sewage	2/86
Underground Storage Tanks-Petroleum	11/85
Underground Tanks-Regulated Substances	11/87
Exempted Underground Tanks	11/87
Subtitle D	11/87
Ground Water Contamination	11/85
Dioxin from Resource Recovery Facilities	As Soon As Possible

LISTINGS* - the listings which are currently on schedule to meet the February 2, 1986 statutory deadline are as follows:

- Chlorinated Dioxins (Completed)
- Chlorinated aliphatics
- Dimethyl hydrazine
- TDI
- Carbamates
- Bromacil
- Organo Bromide
- Linuron
- Chlorinated aromatics
- Lithium batteries
- Paint products
- Solvents
- Coal slurry pipeline

* The 1984 RCRA Amendments require EPA to determine whether to list certain wastes as hazardous wastes by specific dates. It is considered that a proposed listing complies with the statutory mandate to "determine" whether to list a waste. Based on this interpretation, we currently expect to meet the above listing decisions.

8/19/85

GROUP B

REGULATIONS, STUDIES AND LISTINGS WHICH ARE CURRENTLY NOT ON SCHEDULE TO MEET THE STATUTORY DEADLINES.

While the EPA currently plans to meet most of the statutory deadlines for regulations, studies, and listings, there are a few areas where, despite its best efforts, the Agency has missed the statutory deadline or is likely to do so. These delays, which are largely unavoidable, are attributable to such factors as the complexity of the legal, technical and policy issues involved in the Agency's decision and the need for additional data and technical analysis.

First, the statutory deadlines were not met for the following regulations and studies:

- Underground hazardous waste tanks standards (due 3/85)
- Federal procurement guidelines for paper (due 5/85)
- Study concerning the use of private inspectors (due 5/85)
- Study concerning small quantity generators waste management practices (due 4/85)

EPA has already proposed standards for underground hazardous waste tanks and anticipates issuing final standards in June 1986. Federal procurement guidelines for paper have also been proposed and final guidelines are scheduled to be issued early next year. Finally, the above two studies should be completed in about 5 to 8 months.

In addition, several regulations, guidelines and listings, which the 1984 RCRA Amendments require to be completed in the

GROUP B, CONTINUED

next 6 to 12 months, are not likely to be issued on time. They include:

- Hazardous waste export regulations (due 11/85)
- Standards for placement of containerized liquids in landfills (due 2/86)
- Air emissions regulations (due 5/87)
- Federal procurement guidelines for fly ash (road construction) tires and oil (due 10/85)
- Decision whether to list halogenated dioxins and dibenzofurans (due 11/85)
- Decision whether to list dyes and pigments, coke by-products, inorganic chemical wastes, and refining wastes (due 2/86)

The export regulations are likely to be issued in early 1986 and containerized liquids in landfills in early 1987. Air emission regulations may be delayed until mid-1988. The procurement guidelines and waste listing decisions are likely to be issued in phases during the period mid-1986 through early 1987.

8/19/85

GROUP C

PERMITTING ACTIONS

Finally, the 1984 RCRA Amendments require the permitting of:

(1) Land disposal units by November 1988,
(2) Incinerators by November 1989, and
(3) Storage units by November 1992.

At this time, we expect to meet the deadlines for issuance of incinerator and storage permits.

However, while every effort is being made, permitting the entire universe of land disposal units by November 1988 is going to be very difficult. Meeting the deadline will depend on the number of facilities which must ultimately be permitted and the extent of corrective action required. Specifically,

- A key factor will be the total number of facilities which, after November 8, 1985, stay in the universe of facilities requiring permits. By that date, land disposal units are required to certify compliance with ground water monitoring, financial assurance, and other requirements. The first consideration is how many of the units will certify and remain open, and how many will not certify and will close.

- The next major issue relates to the number of facilities requiring corrective action as called for in the 1984 RCRA Amendments. Such corrective action could, itself, take considerable time and slow the issuance of permits.

It is apparent that the above and other considerations will determine the extent to which the November 1988 deadline is achievable. Thus, while we expect to permit the majority of land disposal facilities by November 1988, it is very difficult to predict the precise number at this time.

We will be developing more detailed schedules after November 8, 1985, and will be pleased to share this information with the Committee.

Senator STAFFORD. All right. Thank you very much.

I see a very valuable member of our committee has come in for the second time, I believe. Senator Baucus, if you have any statement or questions, we'd be glad to have them.

Senator BAUCUS. Thank you, Mr. Chairman. I do, actually.

Dr. Porter, two questions. First, with respect to Superfund cleanup generally. I understand that an outside organization has commissioned a study with respect to the feasibility of citizen suits and citizen access in Superfund cleanup. I believe it's the Environmental Law Institute that did the study and I understand that it's their conclusion that allowing citizen suits would not interfere with EPA enforcement, would not cause any problems.

I further understand that the agency has continued to oppose citizen access, and I'm wondering what your view on the subject will be.

Dr. PORTER. Thank you, Senator. I'm going to investigate this, obviously, very thoroughly. It's something which has come up repetitively. My feeling is—I'm very concerned about the pace of the program. I think there are a lot of things that would be interesting to do and, perhaps, worthwhile. One of my goals is to move forward briskly with cleaning up the sites, and I think there could be some delay factor in the citizen suits, but I don't want to get into too much detail on that because, frankly, I've not got into it. You're certainly correct that the Administration's—Lee Thomas'—position to date has been to not be in favor of that, and I think generally that's probably my position but I'd like to get into it in more detail, if I could.

Senator BAUCUS. I encourage you to look at it independently and objectively so that you reach your own conclusions and not just take necessarily the view of the Administrator on this. I understand a natural Agency reluctance to be in agreement with such a provision because it might tend to get in the way of the Administrator or the Agency. On the other hand, our primary goal here is cleanup as quickly as possible and sometimes agencies—I'm not saying the EPA—but sometimes agencies get a little bureaucratic and they get a little wound up in redtape and tend not to be acting as quickly and as expeditiously as they should. Obviously, it helps to keep all governmental agencies on their toes. We're kept on our toes; we self-destruct every 6 years. That's what keeps us on our toes, and sometimes it's helpful to find ways to keep all agencies on their toes; and citizens' access, arguably, is one such mechanism.

So I encourage you to look at it very objectively with the goal in mind of as much cleanup and as quickly as possible because that's the goal that we're trying to achieve here.

More specifically, in the State of Montana, as you may know, there are three Superfund cleanup sites that are the result of copper mining in the State of Montana. Butte, MT, was once the site of a great copper mine; it still is a site, but there's no copper ore being extracted now, and there is a cleanup site there. It's called Silver Bow Creek. Twenty miles downstream there's another site, again as a consequence of copper mining in Montana; that's where the smelter is, and there's a site there. Further down the creek—this is the Clark Fork of the Columbia—there is a third site. It's at Milltown, and the reason there is a site there is because

there is a dam there, and over the years the heavy metals in the sediment, arsenic, and other metals have accumulated at this dam site. That has affected the underground water, which is the source of the water for the community of Milltown, MT.

The problem is this. In addition to those three separate sites that need EPA cleanup action, there are some places between the three sites that need a lot of help, and I would like you to look at the question to see the degree to which there can be a continuous cleanup along that stretch; not only the three sites but along the stretch between them because the problems occur not only at the three sites, but along the entire creek. It may be necessary even to extend beyond Milltown, MT, all the way to the Idaho border, because it's part of the same drainage system.

Dr. PORTER. Senator, I might just comment briefly on that. Your staff has mentioned this question to me, and I did take a quick look at it with Mr. Hedeman, our Superfund chief and other individuals.

My understanding is that, in the remedial investigation work that's going to be starting at those locations, we have agreed to take a reasonably broad look at the area. I don't think we want to commit yet to necessarily making the whole area a Superfund site; that does raise some precedential sort of situations, but we will take a look at it and we are going to look at it in the remedial investigation and see exactly what the problem is.

Senator BAUCUS. Could you continue to look at it and submit for the record your recommendations?

Dr. PORTER. Yes, I will.

[Information requested follows:]

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

August 19, 1985

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

Honorable Max Baucus
Committee on Environment
and Public Works
United States Senate
Washington, D.C. 20510

Dear Senator Baucus:

During my confirmation hearing you asked for my recommendations regarding three Superfund cleanup sites along a stretch of the Clark Fork River. Specifically, you raised the possibility of a "continuous cleanup" along this stretch, and perhaps even to extend "all the way to the Idaho border."

I have researched this issue further and want to offer the following comments. First, the EPA's Region VIII Office has agreed to expand the area included in the remedial investigation. This investigation will provide information to be used in making a decision on the best course of action to take at Silver Bow Creek. Mr. Hedeman, the Director of the Superfund office, has met with the residents of the area and agreed to also review the community relations program underway at the site.

In response to the second part of your question on the [illegible] to clean up "all the way to the Idaho border," let me indicate that EPA is concerned with that area since it is part of the area's drainage system. We are currently reviewing information to determine the appropriate cleanup response warranted for the entire area.

I hope the above comments are helpful to you.

Sincerely,

J. Winston Porter

J. Winston Porter
Assistant Administrator

Senator BAUCUS. Thank you.

Thank you, Mr. Chairman.

Senator STAFFORD. Thank you, Senator Baucus.

And now, unless there is something further, the hearing will be concluded and the committee will stand adjourned.

[Whereupon, at 11:05 a.m., the committee recessed, to reconvene at the call of the Chair.]

[Responses to a committee questionnaire, a memorandum from the General Counsel, Environmental Protection Agency, and statements submitted for the record follow:]

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ROOM 410 DIRKSEN BUILDING WASHINGTON, DC 20510

INFORMATION

REQUESTED OF PRESIDENTIAL NOMINEES

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and twenty-five (25) copies of the requested information should be made available to Honorable Robert T. Stafford, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC 20510 (Attn: Staff Director) as soon as possible.

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Porter (Last) James (First) Winston (Middle)

Position to which nominated: Assistant Administrator for Solid Waste & Emergency Response, EPA

Date of Nomination: June 27, 1985

Phone: (office) (202) 382-4610 (Home) (703) 338-2124

Date of birth: 11-14-37 (Day) (Month) (Year) Place of birth: Houston, Texas

Marital status: Married Full name of spouse: Linda Baird Porter

Name and ages of children:

Annis Marie Porter	18
Karen Susanne Porter	16

Education:

	Institution	Dates attended	Degrees received	Dates of degrees
1)	University of California at Berkeley	6/61-1/65	PhD in ChE	1/65
2)	University of Texas at Austin	9/56-8/60	B.S. in ChE	8/60

Employment record: List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

9/76-5/85: Principal in the management and engineering consulting firm of J. W. Porter and Associates, Leesburg, Va.

9/75-9/76: Vice President and Manager of Services for Saudi Arabian Bechtel Company (Sabco) in Al Khobar, Saudi Arabia. Supervised Sabco's finance, accounting, personnel, and contract administration activities.

11/74-9/75: Vice President of International Bechtel, Inc. and Program Manager for the Master Plan of the multi-billion dollar Jubail Industrial City in Saudi Arabia.

Employment record—Continued

10/66-11/74: Numerous environmental engineering and management positions with Bechtel Corp. in San Francisco, culminating in role as Manager of the Environmental Services Dept.

7/66-10/66: Research engineer in the Sea Water Conversion Lab at Scripps Institute of Oceanography in LaJolla, California.

1/65-6/66: Chairman of the Chemistry Department of the College of Petroleum and Minerals in Dhahran, Saudi Arabia

Honors and awards: List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

1) Research assistantship at University of California Sea Water Conversion Lab at Richmond, CA while working toward PhD.

2) Tau Beta Pi - Engineering honorary society

3) Omega Chi Epsilon - Chemical engineering honorary society

Memberships: List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
Loudon County Chamber of Commerce	President	1/85 - 5/85
American Institute of Chemical Engineers	Director of Environmental Div.	1970 - 72 (member since 1965*
American Chemical Society	Member	1966*- present
Water Pollution Control Federation	Member	1968*- present

*Approximate

Qualifications: **State fully your qualifications to serve in the position to which you have been named.**

My 20-year professional career has been spent primarily in various environmental engineering and management positions. In addition, I have significant experience in general and project management. This experience is coupled with a strong chemical engineering academic background and extensive community involvement activities.

Future employment relationships:

1. **Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.**

Yes.

2. **As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.**

No plans at this time.

3. **Has anybody made a commitment to you for a job after you leave government?**

No.

4. **(a) If you have been appointed for a fixed term, do you expect to serve the full term?**

N/A

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No.

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

None.

Financial Statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

None.

3. Are any assets pledged? (Add schedule).

No.

4. Are you currently a party to any legal action?

No.

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes.

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No.

Potential conflicts of interest:

1. Describe any financial or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

Served as a consultant on environmental matters on numerous occasions to the Bechtel Corporation and FMC Corporation. Also, employed by Bechtel from 1966-1976. I have recused myself from any matters where either of these firms is a party.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None.

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

N/A

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

I have received counselling from the EPA's Ethics Officer. Also, he has signed the SF 278 form. Finally, a recusal statement is attached.

Political affiliation and activities: List all memberships and offices held in, or financial contributions (in excess of $1,000), and services rendered to any political party or election committee during the last 10 years.

Chairman of the Loudon County (VA) Republican Committee dinner 1982-84.

Member of the same Committee from 1980 to May, 1985.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

Please see attached list of papers and publications.

Additional Matters:

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

None.

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes.

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

No.

AFFIDAVIT

I, J. Winston Porter, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

J. Winston Porter

Subscribed and sworn before me this 17 day of July, 1985.

Mary V. Boyle

Notary Public

My Commission expires October 14, 1988

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PAPERS AND PRESENTATIONS

BY J. WINSTON PORTER

Authors	Date	Paper or Presentation
J. W. Porter	September, 1979	"Master Planning in Developing Countries," Project Management Quarterly.
J. W. Porter W. D. Fletcher	October, 1978	"Managerial Staffing in the Middle East," Management Review.
J. W. Porter	September, 1976	"Business Conditions in the Middle-East," Presented at Foreign Trade Association of Southern California, Los Angeles.
J. W. Porter	April, 1973	"Engineering Trade-Offs in Environmental Control," Presented at Southwestern and Rocky Mountain Division of American Association for the Advancement of Science, Lubbock, Texas.
J. W. Porter J. H. Blake R. T. Milligan	April, 1973	"Zero Discharge of Wastewater from Petroleum Refineries," Presented at National Conference on Complete Water Reuse, Washington, D. C.
J. W. Porter W. G. Hall W. J. Miller	March, 1972	"South San Francisco Bay Study - The Recommended Plan and Techniques in its Development," Lecture for University of California Extension, San Francisco.
J. W. Porter C. L. Weddle D. G. Niles E. Goldman	October, 1971	"Studies of Municipal Wastewater Renovation for Industrial Water," Presented at 44th Annual Conference of WPCF, San Francisco.
J. W. Porter C. L. Weddle S. K. Mukherjee H. P. Skarheim	December, 1970	"Mathematical Model for Water-Wastewater Systems," Journal of AWWA.
J. W. Porter	December, 1970	"Planning Aspects of Wastewater Renovation Projects," Remarks to the State Water Resources Control Board Hearing on Wastewater Reclamation, San Jose, California.
J. W. Porter	September, 1970	"Planning of Municipal Wastewater Renovation Projects," Journal of AWWA.

Authors	Date	Paper or Presentation
C. W. Weddle J. W. Porter S. J. Mukherjee H. P. Skarheim	June, 1970	"Mathematical Model for Planning Water Supply/Wastewater Disposal Systems," Presented at 90th Annual Conference of AWWA, Washington, D. C.
J. W. Porter A. N. Hopkins W. L. Fisher	December, 1968	"An Economic and Engineering Analysis of Municipal Wastewater Renovation," Presented at AIChE Annual Meeting, Los Angeles.
J. W. Porter	November, 1968	"Combination Desalination/Wastewater Renovation Concepts," Presented before Southern California Water Utilities Association, Los Angeles.
J. W. Porter	October, 1968	"A Preliminary Economic Analysis of Municipal Wastewater Renovation," Presented at California Section of AWWA; Anaheim, California.
J. W. Porter A. N. Hopkins W. L. Fisher	1968	"An Economic and Engineering Analysis of Municipal Wastewater Renovation," Water-1968, Chemical Engineering Progress Symposium Series No. 90.
J. W. Porter	March, 1968	"Promotion of Drop-by-Drop Condensation of Steam from Sea Water on a Vertical Copper Tube," AIChE Journal.
J. W. Porter	January, 1968	"Engineering for Pure Water, Part I: Distillation," Mechanical Engineering.
J. W. Porter	January, 1968	"Direct Contact Heat Transfer Between Immiscible Liquids in Turbulent Pipe Flow," AIChE Journal.
J. W. Porter	August, 1967	"Water Desalination by Distillation," Ocean Industry.
J. W. Porter	May, 1967	"Current Status of Saline Water Distillation," Presented at Underwater Technology Conference of ASME, Hampton, Virginia.
J. W. Porter J. L. Appleton	April, 1967	"Design of Large Sea Water Distillation Plants," Presented at ACS Meeting, Miami Beach.
J. W. Porter C. R. Wilke C. T. Cheng V. L. Ledesma	December, 1963	"Sea Water Evaporation by Direct Contact Heat Transfer," Presented at 56th Annual Meeting of AIChE in Houston. Also published in Chemical Engineering Progress.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 28 1985

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

MEMORANDUM

TO: Jack W. McGraw
Acting Assistant Administrator
for Solid Waste and Emergency Response

This is to inform you that during my employment with EPA I wish to recuse myself from participation in any matters which involve the following firms as a party:

1. Bechtel Group, Inc.

2. FMC Corporation

J. Winston Porter
J. Winston Porter

cc: Gerald H. Yamada, Designated Agency Ethics Official

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 28 1985

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

TO: James W. Porter, Consultant
Office of Solid Waste and Emergency Response (WH-562A)

FROM: Gerald H. Yamada
Acting General Counsel
Designated Agency Ethics Official (LE-130)

SUBJECT: Waiver Under 18 U.S.C. §208(b)(1)

The SF 278, Executive Personnel Financial Disclosure Report, which you submitted in connection with your nomination as Assistant Administrator for Solid Waste and Emergency Response, indicates that you own shares in several municipal bond funds. These funds are: Dean Witter Municipal Investment Trust #246 ($5,000 - $15,000), Dean Witter Municipal Investment Trust #121 ($15,000 - $15,000) and Sears Tax Exempt Fund #41 ($15,000 - $50,000).

As you are aware, 18 U.S.C. §208(a) prohibits federal employees from participating in any "particular matter" affecting their financial interests. The term "particular matter" includes both a policy or rulemaking matter which distinctively affects an industry or other class of entities and a matter which involves an entity as a specific party, such as a grant or enforcement proceeding. It is likely that you will be called upon to participate in matters which distinctively affect state or local governments as a class or matters which involve entities in which your funds may hold bonds, and 18 U.S.C. §208(a) may bar such participation.

However, under 18 U.S.C. §208(b)(2), agency regulations may exempt certain interests "as being too remote or inconsequential to affect the integrity of Government officers' or employees' services." EPA regulations at 40 C.F.R. §3.301(b) exempt "[m]utual funds, except those which concentrate their investments in particular industries" and "[b]onds or other securities issued issued by the U.S. Government or its agencies." Since your holdings are essentially mutual funds which do not concentrate investments in any "industry," they are arguably exempt. However, since the regulation implies that bonds other than U.S. Government bonds remain subject to the statutory prohibition,

a cautious reading suggests that the exemption for "mutual funds" does not apply to funds which concentrate their investments in state and local obligations. fn/

Under 18 U.S.C. §208(b)(1) and 40 C.F.R. §3.301(a), I am nonetheless authorized to waive the prohibition of 18 U.S.C. §208(a) in specific cases where the interest "is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect." Although your holdings are relatively large, the funds are analogous to the corporate stock mutual funds which are exempt by regulation, and their holdings are very widely diversified. Moreover, since your only knowledge of the funds' holdings is derived from periodic reports, you often will not know whether the funds hold bonds in an entity which will be affected by a matter which comes to your attention. In any event, since the holdings consist solely of bonds, it is unlikely that any EPA matter would significantly affect the security of the bonded indebtedness, the value of any particular bonds or the interest earned. Indeed, even if an EPA matter could be said to have such an effect, the fact that the funds' portfolios are widely diversified suggests that your personal interest would be slight.

For the foregoing reasons, I have no difficulty determining that your interest is "not so substantial," and a waiver under 18 U.S.C. §208(b)(1) is hereby granted.

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fn/ With the approval of the Office of Government Ethics, EPA is proposing to amend 40 C.F.R. §3.301(b) to explicitly include tax exempt bond funds among the 18 U.S.C. §208(b)(2) exemptions. However, this amendment is not yet effective.

cc: Office of Government Ethics

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 2 - 1985

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

TO: James W. Porter, Consultant
Office of Solid Waste and Emergency Response (WH-562A)

FROM: Gerald H. Yamada
Acting General Counsel
Designated Agency Ethics Official (LE-130)

SUBJECT: Addendum to Waiver Memorandum of June 28, 1985

My memorandum to you dated June 8, 1985 provided a waiver under 18 U.S.C. §208(b)(1) to allow you to participate in EPA matters which affect state and local governments, including matters which involve entities in which your tax exempt bond funds may have an interest.

The waiver inadvertently omitted your holdings in the Dean Witter Municipal Investment Trust #358, valued between $5,000 and $15,000. This is to assure you that your holdings in the Dean Witter Municipal Investment Trust #358 are covered by the memorandum of June 28, 1985, and that you may participate in EPA matters which involve or affect entities in which this fund may bonds or other securities.

cc: Office of Government Ethics

Association of State and Territorial Solid Waste Management Officials
444 North Capitol Street, N.W. • Washington, D.C. 20001 • 202-624-5828

July 22, 1985

Honorable Robert T. Stafford
Chairman
Senate Committee on Environment and Public Works
SD-410
Washington, D.C. 20510

Dear Senator Stafford:

The Association of State and Territorial Solid Waste Management Officials (ASTSWMO) would like to take this opportunity to go on record in support of the nomination of Dr. J. Winston Porter to the position of Assistant Administrator for Solid Waste and Emergency Response, U.S. Environmental Protection Agency (USEPA).

ASTSWMO is pleased that the Administration has nominated a candidate with extensive technical expertise which can be utilized to administer the federal programs established to implement the Resource Conservation and Recovery Act as amended in 1984 (HSWA) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) now in the midst of reauthorization.

Having met with Dr. Porter last week at our summer Board of Directors' meeting, we were impressed with his acknowledgement of how important the States' input is in the State/Federal Relations process, and we are optimistic about his willingness to work with the States on HSWA and CERCLA issues of mutual concern.

Again, ASTSWMO endorses the nomination of Dr. Porter to the position of Assistant Administrator for Solid Waste and Emergency Response, and we respectfully request that this endorsement be included in the Committee hearing record.

Sincerely,

Earl W. Tower, Washington
President
ASTSWMO

EWT:bs

cc: ASTSWMO Board of Directors
Lee Thomas, USEPA Administrator
Dr. J. Winston Porter

ACEC File #700.10

American Consulting Engineers Council
1015 Fifteenth Street, N.W., Washington, D.C. 20005
202-347-7474
Telex 897445 AMCONENGRC WSH

July 24, 1985

The Honorable Robert T. Stafford
Chairman
Committee on Environment and Public Works
United States Senate
133 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Stafford:

The American Consulting Engineers Council respectfully requests submission for the record its endorsement of Dr. J. Winston Porter as Assistant Administrator for Solid Waste and Emergency Response at the Environmental Protection Agency.

Dr. Porter has historically enjoyed a high reputation within both the public and private sectors for his extensive expertise in the solid/hazardous wastes and Superfund areas. We believe that the combination of this acumen and his anticipated enthusiastic approach towards the Agency's administration of congressionally mandated programs will contribute to viable solutions of our nations's environmental challenges.

Thank you for your consideration.

Sincerely,

Laurence D. Bory
Managing Director
Governmental and
International Services

President: ARNOLD L. WINDMAN, New York, New York. *Senior Vice President/Treasurer*: LESTER H. SMITH, JR., Nashville, Tennessee. *Vice Presidents*: EDWARD W. DAVIDSON, JR., Atlanta, Georgia. JAMES E. (BUD) MOULDER, St. Louis, Missouri. ROBERT J. SMITH, Seattle, Washington. ROBERT E. HOGAN, Dallas, Texas. DONALD R. LA ROCHELLE, Lewiston, Maine. LEONARD RICE, Denver, Colorado. *President-Elect*: LESTER H. POGGEMEYER, Bowling Green, Ohio. *Executive Vice President*: LARRY N. SPILLER.